

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Misc. Civil Application No. 649 of 2019
(M/s Tata Steel BSL Ltd. Vs. Varsha Maheshwari & Anr.)
in
Writ Petition No. 8620 of 2018 (D)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Anand Jaiswal, Sr. Advocate with Mr. Jitesh Duhilani, Mr. Arvind Thapliyal & Mr. Vijay Purohit, H/f Mr. Shyam Dewani for the petitioner.

CORAM : MANISH PITALE, J.

DATED : JULY 9, 2019

This is a review application filed on behalf of the original writ petitioner seeking review of Judgment and order dated 28/03/2019, passed by this Court whereby the Writ Petition filed by the applicant herein was dismissed.

2. Various grounds of challenge have been raised in the present review application, pointing out that this Court has committed an error in allowing the Writ Petition. At the outset, it is pointed out that this Court has wrongly observed that Tata Steel BSL Limited was the resolution applicant while the resolution applicant was Tata Steel Limited. This is pointed out as a factual error committed by this Court while passing the said Judgment and order.

3. Apart from this, detailed grounds have been raised on behalf of the review applicant, pointing out that this Court has erred in appreciating the scheme contemplated under the Insolvency and Bankruptcy Code, 2016 and that the terms of the resolution plan finally accepted by the adjudicating authority have not been appreciated in the correct perspective.

4. The learned senior counsel appearing on behalf of the review applicant submits that this Court erred in quoting and relying upon certain portions of the documents on record because the portions relied upon did not form part of the final resolution plan, which was accepted. It was further submitted that this Court failed to appreciate the interplay between Sections 30, 31 and 53 of the aforesaid Code while holding that the writ petition deserved to be dismissed and that the suit filed by the non-applicant / respondent No.1 could be continued before the Trial Court. It was further pointed out by the learned senior counsel that the clauses of the resolution plan were not properly appreciated by this Court because if the said clauses were to be read in their entirety, it would be evident that the proceedings initiated by the respondent No.1 in the form of civil suit pending before the Trial Court automatically stood terminated and extinguished, the moment the resolution plan was

finalized and it received the stamp of approval of the adjudicating authorities under the provisions of the said Code.

4. Having heard the learned senior counsel for the review applicant and having perused the Judgment and order, as also the provisions of the Code and clauses of the resolution plan, it is found that in so far as the observation of this Court that Tata Steel BSL Limited was resolution applicant, it is correctly pointed out that the said observation is incorrect and that the resolution applicant was actually Tata Steel Limited. To that extent, the present review application deserves to be granted.

5. But, as regards the other exhaustive grounds raised on behalf of the review applicant and the detailed submissions made by the learned senior counsel in the context of the resolution plan and provisions of the aforesaid Code, this Court is of the opinion that the grounds so raised and the submissions made in support thereof do not demonstrate any specific error apparent on the face of the record in the Judgment and order passed by this Court.

6. This Court has dealt with the clauses of the resolution plan, as also the provisions of the aforesaid Code in detail in its Judgment and order and a view has been taken that the suit filed by the

respondent No.1 and pending before the Trial Court cannot be extinguished on the interpretation of the provisions of the Code and clauses of the resolution plan as canvassed on behalf of the review applicant (original writ petitioner). This Court is of the opinion that the nature of the grounds raised and submissions made in support thereof are more in the nature of supporting an appeal against the Judgment and order passed by this Court on merits. Such grounds cannot obviously be considered by this Court while exercising review jurisdiction.

7. In view of the above, the present review application is partly granted to the extent that the said observation made in the Judgment and order dated 28/03/2019 to the effect that Tata Steel BSL Limited was resolution applicant is incorrect and that it shall be corrected and stated that the resolution applicant was actually Tata Steel Limited. In so far as all other grounds raised in the review application and submissions made in support thereof are concerned, this Court finds that there is no merit in the same and all such grounds stand rejected.

8. The learned counsel for the applicant contended that this Court may give an observation that the applicant would be entitled to canvas all questions on the facts and law before the Trial Court, since it has been held by this Court that the

suit filed by the respondent No.1 would continue. It goes without saying that the review applicant would be entitled to argue all questions of facts and law before the Trial Court, except the question of maintainability or continuation of the suit before the Trial Court, in view of resolution plan being finalized under the provisions of the said Code.

JUDGE