

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.1408 of 2019
&
C.M.P.No.9718 of 2019

K.Paramasivam ... Appellant/Petitioner

-vs-

1. The Karur Vysya Bank Ltd.,
Asset Recovery Branch,
Padmavathiyar Road,
Off Peters Road,
Gopalapuram, Chennai - 14.
2. Mrs.Aneetha Subramaniam ... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order of this Court in W.P.SR.No.49697 of 2019 dated 12.04.2019.

W.P.SR.No.49697 of 2019: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for records relating to National Company Law Tribunal and impugned order dated 08.04.2019 in C.P/1314(IB)/2018 and quash the same.

For appellant : Mr.A.L.Somayajee, Senior Counsel and
N.L.Rajah, Senior Counsel
for M/S.P.J.Rishikesh

For respondents: Mr.G.Rajagopal, Additional Solicitor
General Assisted by
Mr.V.Chandrasekaran
M/s.N.P.Vijay Kumar, R.Pradeep
(for R.1)
Mr.Avinash Krishnan Ravi (for R.2)

JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

This appeal has been filed by the appellant against the order of this Court in W.P.SR.No.49697 of 2019 dated 12.04.2019.

2. We have heard Mr.A.L.Somayajee, learned senior counsel and N.L.Rajah, learned senior counsel for the appellant and Mr.G.Rajagopal, learned Additional Solicitor General assisted by Mr.V.Chandrasekaran for the Union of India, Mr.N.P.Vijay kumar, R.Pradeep for first respondent and Mr.Avinash Krishnan Ravi for the second respondent.

3. The writ petition filed by the appellant was dismissed on the ground that as against the order of National Company Law Tribunal dated 08.04.2019, impugned in the writ petition, the appellant has an efficacious and alternate remedy before National Company Law Appellate Tribunal. The appellant is before this Court by placing reliance on the decision of the Hon'ble Supreme Court in the case of Swiss Ribbons Pvt. Ltd., & another Vs. Union of India & others reported in [2019] SCC OnLine SC 73 dated 25.01.2019 and the learned senior counsels appearing for the appellant have drawn the attention of this Court to paragraph 24 and 25 of the Judgment. It is the submission of the learned counsel that in the light of the authoritative pronouncement of the Hon'ble Supreme Court in Swiss Ribbon (supra) the remedy before NCLT, presently situated only at New Delhi shall not be an efficacious remedy as pointed by the Hon'ble Supreme Court in the case of Madras Bar Association Vs. Union of India [(2015) 8 SCC 583]. In order to ascertain the present position, we directed the learned counsels for the appellant to serve papers on the learned Additional Solicitor General, so as to know the exact position as to present state of affairs with regard to construction of regional benches of the NCLAT.

4. To be noted that the time limit stipulated by the Hon'ble Supreme Court in Swiss Ribbon (supra) to establish Regional Benches is yet to be over and the Union Government has got time upto 25.07.2019. However, in the meantime, we find that six additional post of members of NCLAT has been created by the Government and this has been published in the web site. Thus, necessary steps have been taken by the Union Government to implement the directions of the Hon'ble Supreme Court and therefore, in our considered view, the writ petition cannot be entertained at this juncture.

5. The learned senior counsel appearing for the appellant submitted that if the Court relegates the appellant to file an

appeal before the Appellate Tribunal till then the appellant should not be considered as insolvent pursuant to the order passed by the NCLT. In our considered view, this submission cannot be considered in the light of the fact that the writ petition has not even been entertained and we are only testing correctness of the claim of the appellant as to whether they can avoid the alternate remedy available before the NCLAT. In the light of the developments which have taken place, we are of the view that the learned Single Bench was right in not entertaining the writ petition.

6. For the above reasons, writ appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Karur Vysya Bank Ltd.,
Asset Recovery Branch,
Padmavathiyar Road,
Off Peters Road,
Gopalapuram, Chennai - 14.

Copy to

Mr.G.Rajagopal,
Additional Solicitor General of India,
at Madras High Court, Chennai.

+1cc to Mr.N.P.Vijayakumar, Advocate Sr.42470
+1cc to M/S.V.Chandrasekaran, Advocate Sr.42991
+1cc to Mr.P.J.Rishikesh, Advocate Sr.42871

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