

WMP.No.162 of 2020
and
WP.No.33677 of 2019

M.SATHYANARAYANAN,J.,
AND
R.HEMALATHA,J.,

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

This Court, while disposing of W.P.No.33677 of 2019, modified the impugned order passed by the Tribunal, which was the subject matter of challenge in the said writ petition. The said order reads as follows:

"The writ petitioners/Original Applicants/guarantors are directed to pay 25% of Rs.7,66,13,764.29., in respect of M/s.Rathna Stores Private Limited and 50% of Rs.1,05,82,662.81 in respect of M/s.Rathna Stores (Firm) to the credit of AIR.No.5 of 2019 on the file of Debt Recovery Appellate Tribunal at Chennai within a period of three weeks from the date of receipt of a copy of this order, failing which the impugned order would stand automatically revived and it is also made clear that the observations/findings made herein are only for the purpose of disposal of this Writ Petition and this Court has not ventured into the merits of the claim projected by the petitioners in the Original Application to be numbered."

2.Mr.S.R.Rajagopal, learned counsel for the petitioner has invited attention of this Court to paragraph 18 (g) (h) of the affidavit filed in support of

this miscellaneous petition and would submit that the son of the petitioner had forged misdeeds and have swindled, misappropriated and stolen a sum of Rs.2,46,36,822/- from the Hotel's income between May 2019 and September 2019 and transferred the same to the personal accounts and on account of the same, the conditional order passed by this Court could not be complied with and prays for extension of time by three weeks.

3.Mr.Sudhakar, learned Standing Counsel appearing on behalf of the first respondent Bank had invited attention of this Court to the counter affidavit and would submit that auction was conducted and the entire sale amount has been realized even before a year and a sale deed has also been executed at the time of handing over the physical possession of the property to the auction purchaser. Hence, no useful purpose would be served in ordering this petition and prays for dismissal.

4.This Court paid its best attention to the rival submissions and also perused the materials placed before it.

5.The writ petition pertains to the order of Debts Recovery Appellate Tribunal and therefore, this Court cannot venture into the merits of the appeal.

6.The affidavit filed in support of this miscellaneous petition was sworn on 30.12.2019 and even if three weeks time is calculated from that date, it will expire on 20.01.2020.

7.This Court, in the light of the submissions made by the learned counsel for the petitioner as well as the learned Standing Counsel appearing for the first respondent, is of the view that the time sought for by the petitioner is to be extended till 20.01.2020.

8.In the result, the Writ Miscellaneous Petition is disposed of and the petitioner is granted time till 20.01.2020 to comply with the order dated 02.12.2019 made in W.P.No.33677 of 2019 and in the event of failure to comply with the order, would result in restoration of the impugned order automatically to the file.

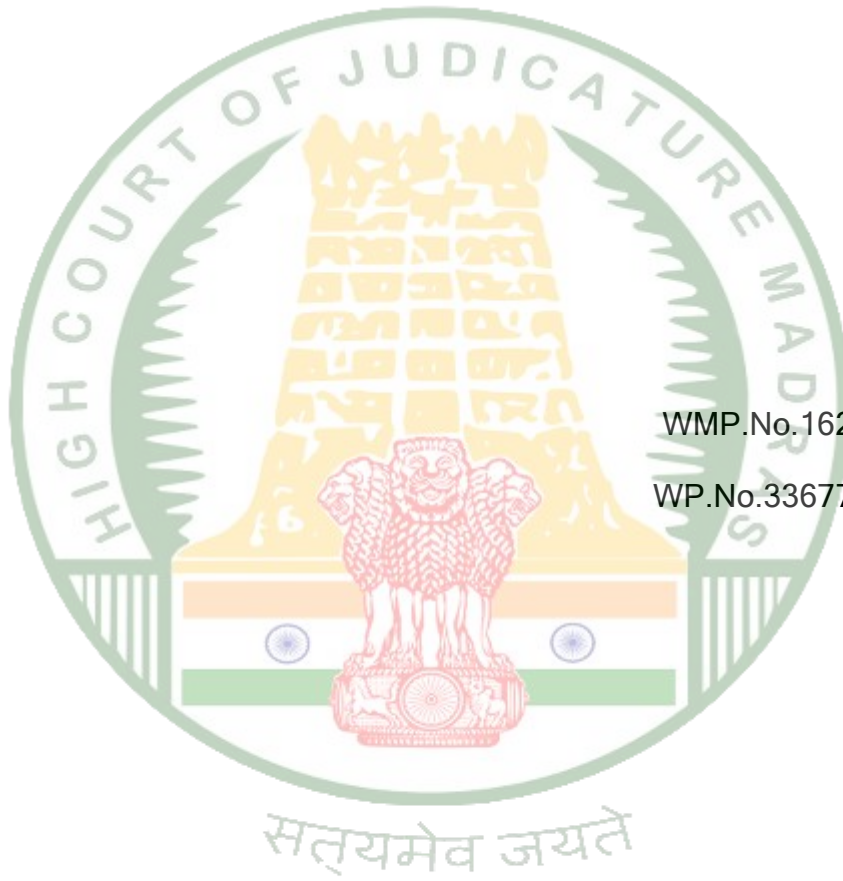
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[M.S.N., J] [R.H., J]
13.01.2020

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