

A.Nos.6897 & 6898 of 2018
in
E.P.No.194 of 2004

SENTHILKUMAR RAMAMOORTHY.J

Application No.6897 of 2018 is filed to punish the Judgment Debtors and Respondents 4 to 8 for interference with the administration of justice in respect of proceedings in E.P. No.194 Of 2004.

Application No.6898 of 2018 is filed to extend the time for auction of the property mentioned therein to any further date as fixed by this Court.

2. The Applicant entered into a Builder's Agreement on 17.09.1987 (the Builder's Agreement) with Respondents 1 to 3 (the Judgment Debtors) for the purchase of 1,132 sq.ft. of commercial office space on the 3rd floor of a building called City Centre Point, which was subsequently renamed as Gemini Towers. This Builder's Agreement was purportedly cancelled. Thereafter, the Judgment Debtors filed a civil suit, C.S. No.1338 of 1992, for a declaration that the Builder's Agreement was validly cancelled. After filing such suit, the Judgment Debtors entered into negotiations with the Applicant which culminated in a compromise memo

dated 11.09.1993, which was incorporated as part of the compromise consent decree dated 13.09.1993 in C.S. No.1338 of 1992. In terms of the compromise consent decree, the Judgment Debtors undertook to complete the construction within 18 months + grace period of 6 months and hand over the building to the Applicant/Decree Holder within 24 months, failing which the monies paid by the Decree Holder would be liable to be repaid with interest thereon at 24% p.a. with quarterly rests. Until the payment is made in full, there would be a charge on the land and buildings as stipulated in the schedule to the said compromise consent decree. On account of the non-fulfillment of the construction obligation in the compromise consent decree, the default clause was triggered and it became operational as a money decree. The Judgment Debtors did not discharge the money decree. Therefore, the Decree Holder filed E.P. No.194 of 2004 for payment of a sum of Rs.1,82,36,464/- as on 01.04.2004 along with future interest. By order dated 19.04.2005, the property described in the schedule to the Execution Petition was attached by issuing a warrant of attachment. On 21.04.2005, prohibitory orders were issued whereby the Judgment Debtors were prohibited from alienating the petition schedule property. Thereafter, proceedings were taken on various days for the sale of the property.

3. The first attempt to sell the property was made on 10.08.2011 and, thereafter, the auction sale was re-scheduled by orders issued on

various dates between 30.04.2014 and 25.07.2018. According to the Applicant, these auction sales were scuttled by the Judgment Debtors either by directly filing applications and appeals or by setting up third party intervenors for such purposes. Thereafter, a person called Mr.Nurani Subramaniam Suryanarayanan, who is Respondent 9 in this Application, filed an affidavit on 05.07.2018 claiming that he was appointed as an Insolvency Resolution Professional (RP) by the National Company Law Tribunal (NCLT) in C.P. Nos.709 and 710 of 2018 on behalf of Respondents 2 and 3 herein. In the said affidavit, it was also stated that a moratorium operates in respect of all legal proceedings as per Section 14 of the Insolvency & Bankruptcy Code,2016 (the IBC). The said moratorium is presently in force and these applications are filed in the above facts and circumstances. There are 9 Respondents in A. No.6897 of 2018: Respondents 1-3 are the Judgment Debtors, out of which Respondents 2 and 3 are corporate entities, which are referred to as the Corporate Judgment Debtors; Respondent 4 is one of the promoters of the second and third Respondents; Respondent 5 is the applicant before the NCLT and the mother-in-law of Respondent 4; Respondents 6 and 7 are directors of the third Respondent; Respondent 8 is a director of the second Respondent; and Respondent 9 was previously the RP of Respondents 2 and 3. Except for Respondent 9, the other Respondents are common in A.No. 6898 of 2018.

4. I heard the learned senior counsel, Mr. Joseph Kodianthara, assisted by Mr. K. F. Manavalan, for the Applicant/Decree Holder; Mr. Thriyambak J. Kannan, the learned counsel for the RP of Respondent 2; Mr. Vijaykumar, the learned counsel for the RP of Respondent 3; Mr. P. S. Raman, the learned senior counsel for Respondent 5; and Mr. V. Prakash, the learned senior counsel for the Respondents 4, 6 to 8.

5. The learned senior counsel for the Applicant/Decree Holder opened the submissions by providing an overview of the transaction that resulted in the execution proceedings, which is substantially in line with the factual background set out in paragraphs 2 and 3 supra. He pointed out that each time the property was brought for auction sale in the execution proceedings, the Judgment Debtors attempted to and often scuttled such sale in one way or the other.

6. In particular, he adverted to the collusive proceedings that were initiated purportedly by 3rd parties. For example, a person called Segu Mohideen filed a third party application in E.P. No.194 of 2004 and the said application was dismissed by the learned Master on 26.07.2013. In addition, the Judgment Debtors also filed multiple applications. Many of the orders were also carried in appeal in O.S.A. No.295 of 2014 and O.S.A. Nos.23 to 27 of 2015. By common order dated 29.01.2015, the Division Bench of this Court directed the intervenors to report as to

whether they are prosecuting the suit filed by them and the learned Master was also directed to dispose of the applications filed under Order XXI Rule 58 CPC within three months. Pursuant to the said order, the appeals were unconditionally withdrawn by the Judgment Debtors as well as the shareholder, i.e. the sister of the Judgment Debtors, on 29.01.2015. In addition, no applications were filed under Order XXI Rule 58 of CPC by the Plaintiff in C.S. Nos.332, 345, 346, 347 of 2014.

7. The learned senior counsel also submitted that when each of these 3rd party intervenors filed applications, it was conclusively demonstrated that these applications were collusive and that the third party intervenors had no right, title or interest in the petition schedule property. Meanwhile, further attempts were made to bring the property for sale. In total, he pointed out that about six attempts were made to sell the property between the years 2011 and 2018. When the sixth auction sale was scheduled on 25.07.2018, the learned senior counsel pointed out that a person called Mr.Nurani Subramaniam Suryanarayanan, who is Respondent 9 in this Application, filed an affidavit on 05.07.2018 claiming that he was appointed as the RP by the NCLT in C.P. Nos.709 and 710 of 2018 on behalf of Respondents 2 and 3 herein. In the said affidavit, it was also stated that a moratorium operates in respect of all legal proceedings as per Section 14 of the IBC.

8. After advertng to the said affidavit, the learned senior counsel submitted that the proceedings before the NCLT under C.P. Nos.709 and 710 of 2018 are collusive proceedings which constitute an abuse of process. Therefore, he submitted that the moratorium imposed by the NCLT by order dated 22.06.2018 is *non est* in law and it should be disregarded by this Court. He also pointed out that the said NCLT proceedings were instituted by the mother-in-law of Manohar Prasad, who is Respondent 4 herein and one of the promoters of the Judgment Debtors. The said mother-in-law, namely, Mrs.K.Bharathi, filed these petitions on the basis of an alleged loan that was extended by Mrs.K.Bharathi to Respondents 3 herein, which was allegedly guaranteed by Respondent 2 herein. By referring to the balance sheet of Respondent 3 for the financial year 2016 – 2017, he pointed out that the alleged loan was reflected in the previous financial year as a loan extended by Mr.Manohar Prasad, whereas, in the subsequent years, it was reflected as a loan from Mrs.K.Bharathi. He also pointed out that the alleged loan extended by Mrs.K.Bharathi and the alleged mortgage deed executed to secure the loan were not brought to the notice of this Court in the execution proceedings over this entire period commencing from the year 2004 until 2018. Therefore, he reiterated that this proceeding is entirely fraudulent. Once it is established that the proceeding is fraudulent, he contended that the proceeding should be completely disregarded. In

support of and in conclusion of his submissions, he referred to and relied upon the following judgments:

(i) **A.V.Papayya Sastry and Ors. v. Government of A.P. And Ors. (Papayya Sastry), MANU/SC/1214/2007**, wherein, at paragraph 19, the Hon'ble Supreme Court held that it is a well settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non est in the eye of law. By relying upon paragraph 22 of the said judgment, he pointed out that it was held that fraud is an extrinsic collateral act which vitiates all judicial acts, whether *in rem or in personam*.

(ii) **Hamza Haji v. State of Kerala and Another (Hamza Haji)(2006) 7 SCC 416**, wherein, at paragraphs 22 to 26 and 27, the Court held that there is no doubt that the Court in exercise of its power under Article 215 of the Constitution of India has the power to undo a decision that has been obtained by playing a fraud on the Court. In particular, in paragraph 27 of the said judgment, the Hon'ble Supreme Court referred to and relied upon a Full Bench judgment of the Bombay High Court in **Guddappa Chikkappa Kurbar v. Balaji Ramji Dange, AIR 1941 Bom 274**, wherein, it was held as under:

"No Court will allow itself to be used as an instrument of fraud, and no court, by the application of rules of evidence or procedure, can

allow its eyes to be closed to the fact that it is
being used as an instrument of fraud”.

(iii) **Gram Panchayat of Village Naulakha v. Ujagar Singh and Others (2000) 7 SCC 543**, wherein, at paragraph 6, the Hon'ble Supreme Court discussed the law on collusion and held as follows:

“8. Collusion, say Spencer-Bower and Turner (para 378), is essentially play-acting by two or more persons for one common purpose- a concreted performance of a fabula disguised as a judicium – an unreal and fictitious pretence of a contest by confederates whose game is the same. As stated by Lord Selborne, L.C. In *Boswell v. Coakes* (1894)6 Rep 167:

There is no Judge; but a person invested with the ensigns of a judicial office, who is mis-employed in listening to a fictitious cause proposed to him, there is no party litigating... no real interest brought into question and to use the words of very sensible civilian on this point, *fabula non judicium, non est; in scena, non is foro, res agitur.*

That, in our view, is the true meaning of the word “collusion” as applied to a judicial proceeding.”

(iv) **Asharfi Ali v. Koilo (Smt) Dead By LRs, (1995) 4 SCC 163**, wherein, at paragraph 14, it was held that “once an inference of fraud or

collusion is drawn, it would be permissible for a minor to avoid the judgment or decree passed in the earlier proceedings by invoking Section 44 of the Evidence Act without taking resort to a separate suit for setting aside the decree or judgment."

9. Mr.Thriyambak J.Kannan, the learned counsel for the RP for Respondent 2, made the following submissions. His first contention was that it is true that the execution proceedings, including the orders of attachment and prohibition, were not referred to in the arbitration initiated by Mrs.K.Bharathi or in the proceeding before the NCLT. For this purpose, he referred to both the order of the NCLT at pages 23 and 24 of the typed set of papers filed by him and to the orders of the NCLT in this regard. He also pointed out that there was not only an order prohibiting alienation but also a specific order of attachment. He also referred to the loan agreement at Page 254 of his typed set of papers and to the memorandum of deposit of title deeds dated 25.05.2018 at page 311 of the said typed set. In response to a question as to who are the secured creditors of the second Respondent, he replied that other than Kotak Mahindra Bank, Mrs.K.Bharathi is the only alleged secured creditor. He referred to the judgment of the Hon'ble Supreme Court in **M/s.Embassy Property Developments Pvt. Ltd v. State of Karnataka & Ors.**, Civil Appeal No.9170 of 2019 and 9171 of 2019,

judgment dated 03.12.2019, so as to contend that it has been held therein that the NCLT is authorised to consider and decide cases relating to fraud and collusion. In other words, even if such allegations are made, the machinery created by the IBC cannot be bypassed. He also relied upon the judgment of this Court in **K.Saradambal v. Jagannathan and Brothers, 1971 SCC Online Mad 273**, wherein the Court examined the meaning of the expression "secured creditors" and concluded that the holder of a statutory lien or the holder of a lien created by contract and registered as required by Section 125 of the Companies Act, 1956, is a secured creditor in the matter of winding up of the insolvent company. He also relied upon the judgment of the Andhra Pradesh High Court in **Kamarapu Sivakumar v. Srimalla Ashok and another, 2004 SCC Online AP 72**, wherein the Andhra Pradesh High Court held that the effect of an attachment under the Code of Civil Procedure is to prevent alienation, whereas it does not confer title or interest in the property.

10. Mr.Vijay Kumar made submissions on behalf of the RP for Respondent 3. Notwithstanding the fact that the initiation of proceedings by Mrs.K.Bharathi before the NCLT is fraudulent, the learned counsel submitted that the NCLT is the appropriate forum to undertake the insolvency resolution or liquidation of Respondent 3. This submission was made on the basis that the NCLT is best equipped to take into

consideration the interest of all stake holders and endeavour to resolve the insolvency. He also pointed out that a sum of about Rs.200 crore is due to the other secured creditor, namely, Kotak Mahindra Bank, and that the interest of such stake holders cannot be disregarded. Therefore, he submitted that this Court should decline to interfere with the orders and proceedings of the NCLT whereby insolvency resolution proceedings are under way and a moratorium has been imposed.

11. Mr.P.S.Raman, the learned senior counsel, made submissions on behalf of Respondent 5. His first contention was that the prayer in Application No.6897 of 2018 is for criminal contempt and not civil contempt. Consequently, he submitted that the petition is not maintainable without the consent of the Advocate General. In this regard, he pointed out that this is not a *suo moto* petition for contempt in the face of the Court. His second contention was that Respondent 5 may be the mother-in-law of Mr.Manohar Prasad, who is one of the promoters of the Judgment Debtors, but is nevertheless a third party to the decree. Therefore, no relief can be requested against Respondent 5 except by filing a separate suit. The third contention of the learned senior counsel was that Section 63 of the IBC imposes a prohibition on the exercise of jurisdiction by a civil court and that, therefore, the present applications are not maintainable.

12. On a demurrer, the learned senior counsel submitted that even if Application No.6897 of 2018 is construed as an application for civil contempt, the prohibitory order issued by this Court was not violated. With specific reference to the said prohibitory order, which is at Page 138 of Volume – I of the typed set of papers filed by the RP for Respondent 2, he contended that the Order dated 21.04.2005 prohibits and restrains the Respondents/Judgment Debtors from alienating the property specified in the schedule by sale, gift or otherwise. On account of the use of the word “alienation” in the order, he contended that it does not apply to the creation of a mortgage, which is not an alienation. In support of these contentions, he relied upon the judgment of the Hon'ble Supreme Court in **Ramesh Singh (Dead) by LRs. and others v. State of Haryana and others (1996) 4 SCC 469**, wherein, at paragraph 4, the Hon'ble Supreme Court held that the execution court does not have the jurisdiction or power to go behind the decree and implead third parties to the decree, who are not claiming a right, title or interest in the decree. He also relied upon the judgment of the Hon'ble Supreme Court in **State of Uttar Pradesh and Others v. Roshan Singh(Dead) by LRs, (2008) 2 SCC 488**, wherein, at paragraphs 7 and 8, the Hon'ble Supreme Court held that the object of Section 151 is to supplement and not to replace the remedies provided in the CPC. Consequently, Section 151 CPC will not be available when there is an alternative remedy.

13. With regard to the facts and circumstances leading up to the present applications, he submitted that the Applicants trace their rights to the Builders Agreement whereby the Respondents 1,2 and 3 agreed to construct a commercial office space for the Applicant. By referring to the consent decree dated 13.09.1993, he pointed out that the amount payable was barely a sum of Rs.4,00,000/- and that the reason for the escalation of the claim is the exorbitant interest rate of 24% per annum, which is to be calculated with quarterly rests. Consequently, he contended that much of the claim is by way of compound interest. Towards satisfaction of this debt, he pointed out that the Judgment Debtors paid a sum of Rs.1 crore as part payment to the Applicant on 09.08.2011. Upon such payment, the amount outstanding, as on that date, was only Rs.89 lakhs with interest thereon. The land in question was bought from Gemini Studio by the Judgment Debtors by raising a mortgage loan from Indian Bank. The said loan was subsequently assigned by the housing and financial services arm of Indian Bank to IL&FS. IL&FS, in turn, assigned the loan to Indiabulls Financial Services Limited(IndiaBulls). At that point of time, Indiabulls insisted that the loan should be guaranteed by a surety. In that situation, Respondent 5, who is the mother-in-law of Manohar Prasad, agreed to be the guarantor. Because Indiabulls insisted on a security from the guarantor, Respondent 5 pledged the shares owned by her in Sun TV Limited as security for the

loan taken by Respondent 3. Upon default by the Respondent 3, Indiabulls invoked the pledge without providing an opportunity to the pledgor to make payment and redeem the pledge. This resulted in arbitration proceedings. Around this time, negotiations took place between Respondent 5 and Respondents 2 and 3 and a loan agreement dated 19.06.2005 was executed wherein it was agreed that Respondents 3 was liable to pay Respondent 5 a sum of Rs.84,79,08,065/- with interest thereon at 24% per annum from 15.12.2008 till the date of payment and that Respondent 2 guaranteed such payment. It was further agreed that the borrower and guarantor shall create an equitable mortgage over the properties described in Schedule – I and II to the said loan agreement in favour of Respondent 5, i.e. the lender. By Arbitral Award dated 18.02.2012, compensation of an aggregate sum of Rs.33 crore was awarded to Respondent 5 and this amount was directed to be adjusted against the balance sum due to the creditor as per the Award. Arbitration Proceedings were initiated, thereafter, by Respondent 5 against Respondents 2 and 3 in respect of the loan agreement dated 19.06.2009 and this resulted in the Arbitral Award dated 11.04.2018 whereby the respondents therein were directed to register an equitable mortgage in respect of the properties described in the schedule to the claim petition. Pursuant thereto, the memorandum of deposit of title deeds was registered in favour of Respondent 5 on 25.05.2018. On that basis,

Company Petitions were filed before the NCLT and the NCLT passed orders on 22.06.2018 admitting the petitions and appointing a RP and also imposing a moratorium as per Section 14 of the IBC.

14. Arguments were advanced, thereafter, by Mr.V.Prakash, the learned senior counsel for the Respondents 4, 6 to 8. His first contention was that Application No.6897 of 2018 is for criminal contempt and not civil contempt and consequently, the present petition is not maintainable as per Section 2(c) r/w Section 15(i)(b) of the Contempt of Courts Act,1971 (the Contempt of Courts Act). In specific, it was his contention that a petition for criminal contempt is not maintainable without obtaining the consent of the Advocate General. The second contention was that the amount outstanding towards principal was only about Rs.4 lakhs and that a sum of Rs.1 crore was paid on 09.08.2011 towards part discharge of the outstanding as on that date. Therefore, he contended that the Applicant/Decree Holder had recovered a substantial amount and the only reason that there is still an outstanding is because of the liability towards compound interest.

15. His third contention was that the prohibitory order dated 21.04.2005 uses the word "alienation". By referring to a judgment of the Bombay High Court in **Pitambar Govinda Bhavsar v. Abdul Gafar**

Abdul Rajak Deshmukh 1970 SCC Online Bom 85 (Pitambar Govinda Bhavsar), and, in particular, paragraphs 11,12 and 18 thereof, he pointed out that it was held therein that the word "alienation" means transfer of ownership of property to another person and it does not include a lease. By applying the said principle, he submitted that the word "alienation" does not include the creation of a mortgage. In any event, he submitted that an action for contempt should not be proceeded with when the order of the Court is capable of more than one interpretation. In such event, he submitted that the benefit of doubt would enure to the benefit of the alleged contemnor. For this proposition, he relied upon the judgment of the Hon'ble Supreme Court in **Chhotu Ram v. Urvashi Gulati and Another (2001) 7 SCC 530**, wherein the Court held that the standard of proof in contempt proceedings is the same standard as that required in criminal proceedings. Therefore, wilful disobedience by the contemnor should be proved beyond all reasonable doubt. He also relied upon the judgment in **Parents Association of Students v. M.A.Khan (Parents Association of Students)(2009) 2 SCC 641**, wherein, at paragraphs 19 and 20, the Hon'ble Supreme Court held that it is a well settled principle of law that if two interpretations are possible and the order is ambiguous, a contempt proceeding would not be maintainable.

16. At this juncture, Mr.Thriyambak J.Kannan, the learned counsel for the RP of Respondent 3 pointed out that in addition to the prohibitory order, the Court also issued an order of attachment on 19.04.2005. As a consequence of such order of attachment, he pointed out that any private transfer of title or interest in the property, which is the subject matter of attachment, would be void as per Section 64 r/w Order XXI Rule 54 CPC.

17. In his rejoinder submissions, Mr.Joseph Kodianthara, the learned senior counsel for the Applicant/Decree Holder submitted that the first charge over the property is in favour of the Applicant/Decree Holder. The said charge was created by the compromise consent decree dated 13.09.1993. Even the mortgage in favour of the Indian Bank was subsequent thereto because it was created on 22.12.1995. He also pointed out that the loan granted by Indian Bank was discharged and the loan account was closed on 28.03.2007. Therefore, he pointed out that there was no assignment in favour of IL&FS. His next contention was that the alleged loan agreement of 2009 came into the picture only in 2018 and was not produced in any court proceeding between 2009 and 2018. On this basis, he submitted that there is sufficient evidence that Respondent 5 colluded with the Judgment Debtors. With regard to the maintainability of Application No.6897 of 2018, he admitted that the

Petition was filed under Article 215 of the Constitution of India r/w Section 2(b) of the Contempt of Courts Act. The power under Article 215 is a constitutional power because the High Court is a Court of record. Consequently, the said power cannot be whittled down or divested. In support of this contention, he referred to the following judgments:

(i) **T.Sudhakar Prasad vs. Government of A.P. and Others (Sudhakar Prasad)**, MANU/SC/0811/2000, wherein, at paragraphs 9 and 10, the Hon'ble Supreme Court held as follows:

"Article 129 and 215 of the Constitution of India declare Supreme Court and every High Court to be a Court of Record having all the powers of such a court including the power to punish for contempt of itself. These Articles do not confer any new jurisdiction or status on the Supreme Court and the High Courts. They merely recognise a pre-existing situation that the Supreme Court and the High Courts are Courts of Record and by virtue of being Courts of Record have inherent jurisdiction to punish for contempt of themselves. Such inherent power to punish for contempt is summary. It is not governed or limited by any rule of procedure excepting the principles of natural justice. The jurisdiction contemplated by Articles 129 and 215 is inalienable. It cannot be taken away or whittled down by any legislative enactment subordinate to the Constitution. The

provisions of the Contempt of Courts Act, 1971 are in addition to and not in derogation of Articles 129 and 215 of the Constitution. The provisions of Contempt of Courts Act, 1971 cannot be used for limiting or regulating the exercise of jurisdiction contemplated by the said two articles."

It was further held in paragraph 10, in relevant part, as follows:

"No act of parliament can take away that inherent jurisdiction of the Court of Record to punish for contempt and Parliament's power of legislation on the subject cannot be so exercised as to stultify the status and dignity of the Supreme Court and/or the High Courts though such a legislation may serve as a guide for the determination of the nature of punishment which a Court of Record may impose in the case of established contempt. Though the inherent power of the High Court under Article 215 has not been impinged upon by the provisions of the Contempt of Courts Act, the Act does provide for the nature and types of punishments which the High Court may award. The High Court cannot create or assume power to inflict a new type of punishment other than the one recognised and accepted by Section 12 of the Contempt of Courts Act, 1971."

(ii) **Supreme Court Bar Association vs. Union of India (UOI) and Ors. (SCBA) MANU/SC/0291/1998**, wherein, at paragraph 19, the Hon'ble Supreme Court held that the power to punish for contempt is an inherent power of the Court of Record and Parliament's power of legislation on the subject cannot, therefore, be so exercised as to stultify the status and dignity of the Supreme Court and/or the High Courts, though such a legislation may serve as a guide for the determination of the nature of punishment which this Court may impose in the case of established contempt."

(iii) **Rama Narang vs. Ramesh Narang and Another (2006) 11 SCC 114**, wherein, at paragraph 24, the Hon'ble Supreme Court held that merely because a decree or order is executable, it does not take away the court's jurisdiction to deal with a matter under the Contempt of Courts Act provided the Court is satisfied that the violation of the order or decree would warrant punishment under Section 13 of the Contempt of Courts Act on the ground that the contempt substantially interferes with the course of justice.

18. With regard to the interpretation of the word "alienation" in the prohibitory order of this Court, the learned senior counsel referred to and relied upon the judgment of the Kerala High Court in **M.C.Thomas v. Sree Emoor Bhagavathy Devaswom (M.C.Thomas), 2011(3) Ker.**

L.J. 188, wherein, at paragraphs 10 and 11, the Kerala High Court disagreed with the views of the Bombay High Court in **Pitambar Govinda Bhavsar** and held that a transfer of property under Section 5 of the Transfer of Property Act, 1872 (the Transfer of Property Act) is a conveyance of property. Therefore, it would cover a lease. In addition, in paragraph 11, the Court referred to the definition of the word "alienate" in the Law Lexicon by P.Ramanatha Aiyar wherein the said word was defined as including mortgages, charges and leases. In this connection, he also referred to both Section 64 of the CPC and Section 58 of the Transfer of Property Act.

19. In response to a question with regard to the jurisdiction of this Court to proceed with the execution proceedings when a moratorium has been imposed by the NCLT, he submitted that the NCLT proceedings and the alleged loan transaction, which is the basis of such proceedings, is completely vitiated by an egregious fraud and, therefore, this Court should ignore the NCLT proceedings and direct an auction sale through this Court.

20. Both Mr.P.S.Raman and Mr.V.Prakash, the learned senior counsel, made their submissions in sur-rejoinder. Mr.P.S.Raman submitted that Article 215 of the Constitution of India is subject to Section 15 of the

Contempt of Courts Act. He further submitted that Respondent 5 is, at a minimum, a creditor of Respondents 2 and 3 even if she is not recognised as a secured creditor. In support of the contention that Article 215 is subject to Section 15 of the Contempt of Courts Act, he referred to and relied upon the judgment of the Hon'ble Supreme Court in **Bal Thackarey v. Harish Pimpalkhute and Others (2005) 1 SCC 254 (Bal Thackeray)**, wherein, at paragraph 20, the Hon'ble Supreme Court held that the requirement of obtaining consent in writing of the Advocate General under Section 15 of the Contempt of Courts Act is mandatory and that without such consent, the petition is not maintainable. It was further held therein that compliance with such procedure is mandatory even if the petition is filed under Article 215 of the Constitution of India. He also relied upon the judgment of the Hon'ble Supreme Court in **Kapildeo Prasad Sah and Others v. State of Bihar and Others (1997) 7 SCC 569**, wherein, at Paragraph 11, the Hon'ble Supreme Court held that wilful disobedience would exclude casual, accidental, bona fide or unintentional acts or genuine inability to comply with the terms of the order and that the petitioner who complains of breach of the court's order must allege and establish deliberate or contumacious disobedience of the Court's order.

21. Mr.V.Prakash submitted that the difference of opinion as between the Kerala High Court and the Bombay High Court on the interpretation of the word "alienate" shows that the interpretation by the Judgment Debtors was *bona fide* and certainly does not amount to wilful disobedience. With regard to Section 64 CPC, he submitted that the implication of Section 64 is that the mortgage is void and it does not imply that there was wilful disobedience of the order of attachment. He further submitted that the mortgage in favour of Indian Bank was in the year 1989 and this preceded the consent decree in favour of the Decree Holder in 1993. He concluded his submissions by reiterating that justice had already been done to the Decree Holder by paying a sum of Rs.1 crore and that the NCLT proceedings cannot be stalled. In a brief submission, Mr.Vijay Kumar, the learned counsel for the RP of Respondent 3 submitted that the alleged loan to Respondent 5 is actually a claim for alleged damages arising out of the invocation of the pledge. Therefore, it is not a debt due.

22. The oral and written submissions of the learned senior counsel/counsel for the respective parties were considered and the records were examined carefully.

23. The first question that arises for consideration is whether the Respondents, including the Judgment Debtors, are guilty of contempt of court and whether the petition, as framed, is maintainable. On this question, the principal contention of the learned senior counsel for Respondent 5 and Respondents 4, 6-8 is that the Application is framed as a petition for criminal contempt. As a consequence, the Application is not maintainable on account of non-compliance with the procedure of obtaining the written consent of the Advocate General. By contrast, the contention of the learned senior counsel for the Applicant/Decree Holder is that the Application is filed under Article 215 of the Constitution of India and, therefore, the Court exercises plenary powers which cannot be curtailed on the alleged ground of non-compliance with Section 15 of the Contempt of Courts Act. In this connection, I find that in **Sudhakar Prasad**(cited supra), a three Judge Bench of the Hon'ble Supreme Court held that the power under Article 215 of the Constitution of India is not curtailed in any manner by the Contempt of Courts Act. In addition, in **SCBA**(cited supra), the Constitution Bench of the Hon'ble Supreme Court held, at paragraph 19, that the Contempt of Courts Act serves as a guide for the determination of the nature of punishment which the Court may impose in the case of established contempt. By contrast, in **Bal Thackarey**(cited supra), a three judge Bench of the Hon'ble Supreme Court held that compliance with the requirements of Section 15 of the

Contempt of Courts Act is mandatory and is required to be followed even with regard to a Petition under Article 215 of the Constitution of India. On closely examining the aforesaid decisions with regard to the exercise of criminal contempt jurisdiction, the following principles emerge:

- (i) The power under Article 215 of the Constitution of India is an inherent power vested in the High Court as a court of record.
- (ii) Article 215 recognises and declares the said inherent power.
- (iii) Consequently, the said inherent power cannot be whittled down or curtailed by an Act of Parliament.
- (iv) Nonetheless, Parliament may prescribe the procedure for the exercise of such power and the punishment to be imposed.
- (v) The Contempt of Courts Act contains the procedure and prescribes the nature of punishment.
- (vi) The prescription of procedure under Section 15, namely, the requirement of obtaining the prior written consent from the Advocate General is mandatory except in the case of *suo moto* contempt.

24. In the instant case, It is the admitted position that the prior written consent of the Advocate General was not obtained. Therefore, the procedural requirement for instituting criminal contempt proceedings is not satisfied. Nevertheless, it is equally settled that a

party sets in motion the process by initiating or instituting contempt proceedings and, once the process is set in motion, it is largely a matter between the Court and the alleged contemnor. On the facts of this case, I am satisfied that the Applicant/Decree Holder has placed sufficient materials on record for the Court to take cognizance of and proceed further by treating this petition as a petition for civil contempt. It is pertinent to point out that the requirements of the Contempt of Courts Act and the principles of natural justice have been fully complied with by putting the affected parties, including third parties such as Respondent 5, on notice, before adjudicating the Application.

25. In view of the aforesaid conclusion that the Application may be treated as an application for civil contempt, the question that arises is whether the Judgment Debtors and Respondent 4-8 committed wilful disobedience of the orders of this Court. In order to decide this question, it is necessary to examine the relevant orders closely. The first order, in this connection, is the compromise consent decree. It is recorded in paragraph 7 thereof that till the date of payment by the plaintiffs in full of the amount specified therein, there shall be a charge on the land and building known as Gemini Towers in favour of the defendant therein. From the above, it is clear that a charge was created over the property in favour of the Applicant/Decree Holder on 13.09.1993.

The next document is the prohibitory order dated 21.04.2005. The prohibitory order is as follows:

"Whereas you have failed to satisfy a Decree passed against you on the 13th day of September 1993 in the above mentioned suit in favour of the above named plaintiff for Rs.4,20,000/- (Rupees Four Lakhs twenty thousand only) towards the amount decreed and a sum of Rs.1,78,16,464/- and making in all a sum of Rs.1,82,36,464/- (Rupees One Crore eighty two lakhs thirty six thousand four hundred and sixty four only) IT IS ORDERED that you the said (1)The City Center Point, (2) Gemini Arts Pvt. Ltd. (3) Green Garden Pvt. Ltd., rep. by its Managing Director A.Ravishankar Prasad, all at No.601, Anna Salai, Chennai – 6 be and are hereby prohibited and restrained until the further order of this Court from alienating the property specified in the Schedule hereunto annexed by sale, gift or otherwise, and that all other persons be, and they are hereby prohibited from receiving the same by purchase, gift or otherwise."

Because the prohibitory order used the word "alienating", it was contended by the learned senior counsel for Respondents 4, 6-8 and Respondent 5 that there is no prohibition on the creation of a mortgage. As a matter of interpretation, I am not inclined to accept this contention

for the following reasons. First, the word "alienate" would encompass any transfer of property. Under the Transfer of Property Act, sales, leases, mortgages and gifts constitute transfers of property and the expression "transfer" is not limited to a sale. The definition in P.Ramanatha Ayar Law Lexicon is also to the said effect. Therefore, I agree with the views expressed by the Kerala High Court in **M.C.Thomas** and disagree with that of the Bombay High Court in **Pitambar Govinda Bhavsar**.

26. Nevertheless, it remains to be considered as to whether the possibility of different interpretations lends credence to the contention of the learned senior counsel for Respondents 4, 6-8 and Respondent 5 that the interpretation that it does not proscribe the creation of a mortgage is a *bona fide* interpretation. If the prohibitory order were to be viewed in isolation, I would have accepted the contention of the learned senior counsel for the above mentioned parties. However, in this case, a consent decree was pronounced on 13.09.1993 and the said consent decree created a charge over the property. The Judgment Debtors were parties to the consent decree and were, therefore, fully aware about the creation of the charge. In addition, an order of attachment was issued by this Court on 25.04.2005. The said order of attachment is, inter alia, as follows:

"Therefore, we command you that you do attach the said immovable property by causing to be read aloud at some place on or adjacent to the said property the written order hereunto annexed, and by causing the same to be affixed in some conspicuous part of the property and of the Court-house or our said Court, and also in the office of the Collector of Madras, and also in the Office of the Corporation of Madras, a copy to the Registrar, City Civil Court, Madras, and a copy to the Sub Registrar of Assurance, and that you return this our warrant on or before the 18th day of May 2005 endorsed with the manner of execution thereof or the reasons why the same shall not have been executed."

Once again, Respondents 1 to 3 were parties to the order of attachment and this order mandates the communication thereof to the Sub Registrar of Assurances. From the above, it is clear that the intention was to even communicate the order to third parties who may intend to deal with the property in question. In fact, even the prohibitory order states that "all other persons are hereby prohibited from receiving the property by purchase, gift or otherwise."

27. In light of the specific language in both the prohibitory order and attachment order, it is abundantly clear that the order also

prohibits third parties from dealing with the property. The action of the Judgment Debtors, their promoter, directors and Respondent 5 should be examined against this factual background. On perusal of the alleged loan agreement dated 19.06.2009, I find that it is executed by Mrs. K. Bharathi, Respondent 5 herein, as the alleged lender, and by Respondents 2 and 3 herein as the guarantor and borrower respectively. Interestingly and significantly, Respondent 2 herein was not even a borrower as regards the loan from Indiabulls. Both Respondents 2 and 3 were represented by their director, Mr.A. Ravishankar Prasad. On examining the alleged loan agreement closely, there is no reference therein to the consent decree dated 13.09.1993, the prohibitory order dated 21.04.2005 or the order of attachment dated 25.04.2005. In fact, it does not refer to the execution proceedings at all although the said proceedings were first initiated as early as in 2004. I also find that recitals VII to XVIII thereof record that a loan was taken from Indiabulls Securities Limited and Indiabulls Financial Services Limited (collectively Indiabulls) and that Respondent 5 stood as guarantor by pledging 97,89,919 shares held by her in Sun TV Network Limited in favour of the lender. On perusal of the Arbitral Award dated 18.02.2012 (the First Arbitral Award) in the arbitration between, inter alia, the pledgors, including Respondent 5 herein, Respondents 2 and 3 herein, Manohar Prasad, Ravishankar Prasad and Indiabulls, I find that the execution

proceedings and the prohibitory order and attachment order of this Court were not referred to therein. A pledge agreement allegedly executed by Respondent 5 herein on 26.06.2008, which is prior to the alleged loan agreement dated 19.06.2009, is referred to therein. By the First Arbitral Award, Respondent 5 was awarded an aggregate sum of about Rs.33 crore as compensation on the basis that Indiabulls wrongfully called in the pledge and sold the pledged shares but these amounts were to be adjusted against the balance sum due to Indiabulls under the First Arbitral Award as on 13.10.2009. The recitals to the loan agreement further record that Indiabulls invoked the pledge by selling the shares on various dates in the year 2008 and realized the value thereof and that the sale price of the shares is agreed to be acknowledged as a loan from Respondent 5 to Respondent 3 in the books of account of Respondent 3. The average sale price of Rs.115/- per share is also recorded in the recitals. The relevant recitals of the loan agreement are set out below because they are *prima facie* indicative of fraud and collusion:

XII

“ To satisfy the apprehensions of the lender, the borrower agreed to pay the lender, the equivalent amount realized by Indiabulls by selling the shares alongwith 24% per annum on such amount from the date of sale of the shares till the actual date of payment of the amount.”

XIII

"The borrowers agreed to acknowledge the value of shares as loan in their books of account payable to the Lender as soon as Indiabulls litigation was over."

XIX

"Pending litigation, the lender and borrower reconciled the account and mutually arrived to a decision that the borrower became liable to pay a sum of Rs.84,79,08,065/- (Rupees Eighty Four crores Seventy nine lakhs eight thousand sixty five only) to the lender along with 24% per annum from 15th December 2008 till the actual date of payment"

XX

"The lender lost faith on the borrower, hence, she renegotiated terms and conditions. Pursuant to fresh terms and conditions, the borrower agreed to repay the loan amount to the lender within 365 days (one year) from the date of settlement and payment with the Indiabulls. However, if the Borrower fails or commits default in making payment to the lender on the last day of the year the guarantor shall stand as guarantor for repayment to the lender and shall also create equitable mortgage of his immovables properties in favour of the Lender"

When the First Arbitral Award and the loan agreement are examined, grave doubts arise as to the genuineness of the loan and the manner of computation thereof, especially when the following is taken into account: Respondent 2 was not a borrower from Indiabulls, the First Arbitral Award envisages adjustment of the awarded compensation and not payment thereof, the alleged consent of Respondents 2 and 3, as recorded in the loan agreement, to treat the sale price of the pledged shares as a loan and the crystallisation of the outstanding at about Rs.84.79 crore with interest thereon at 24% per annum from 15.12.2008. Indeed, as stated earlier, there is *prima facie* evidence of fraud. However, I do not propose to delve deeper into this issue because it is not necessary for purposes of deciding the contempt application and on account of the conclusion herein in respect of the NCLT proceedings.

28. As security for the abovementioned alleged loan, Clause 8 and 9 of the alleged loan agreement stipulated that the borrower/ Respondent 3 herein shall create an equitable mortgage of the property described in Schedule-1 in favour of the lender and that the guarantor/ Respondent 2 herein shall create an equitable mortgage of the property described in Schedule - 2 in favour of the lender. Both the schedule 1 and 2 properties are the properties under attachment and prohibitory orders of this Court in the execution proceedings. On carefully examining the

aforesaid loan agreement and the attendant facts and circumstances, I am of the view that the Corporate Judgment Debtors, their promoter and directors willfully omitted any reference to the prohibitory order and the order of attachment although they were fully aware that the said orders prevented them from creating an equitable mortgage over the property. In the facts and circumstances, including the agreement by Respondent 5 to adjust the amount awarded by the First Arbitral Award towards compensation against the dues of Manoharamma Hotel Investments (P) Ltd. and Respondent 3, I am unwilling to accept that Respondent 5 was unaware of the execution proceedings and the orders passed herein.

29. Many years after the date of the alleged loan agreement, it appears that an arbitration proceeding was initiated by Respondent 5 against Respondents 2 and 3 herein. The Arbitral Award dated 11.04.2018 (the Second Arbitral Award), in the said proceeding, refers to a Memorandum of Agreement of Equitable Mortgage dated 1.04.2015 purportedly executed by Respondent 3 herein and to a Memorandum of Agreement of Equitable Mortgage dated 15.04.2016 purportedly executed by Respondent 2 herein and to the deposit of the original documents of title by Respondents 2 and 3. Both these alleged mortgage documents are not on record. Although reference is made to the above mentioned documents, the Second Arbitral Award does not refer to the execution

proceedings before this Court or the orders passed therein. By the Second Arbitral Award, Respondents 2 and 3 were directed to register the memorandum of deposit of equitable mortgage in respect of the relevant parcels of land so as to complete the equitable mortgage and to file the relevant forms with the Registrar of Companies to register the charge. Pursuant thereto, a memorandum of deposit of title deeds was executed on 25.05.2018 and registered on the same date as Document No.572 of 2018 on the file of the Joint Sub-Registrar, Chennai Central. This document is on record and is executed by Respondent 2, represented by its director, A. Sriramulu, who is Respondent 8 herein and Respondent 3, represented by its director, Tarun Kumar, who is Respondent 7 herein, on the one hand; and Respondent 5 herein, on the other. On perusal of this document, I find that, once again, there is no reference to the execution proceedings or the orders of prohibition or attachment. Another aspect to bear in mind is that the auction sale proceedings were underway before this Court, including at least two endeavours to sell the property in the year 2018, when the aforesaid purported mortgage documents were executed and actions taken pursuant or related thereto. One cannot also completely disregard the fact that the first arbitration, the loan agreement, the second arbitration and the memorandum of deposit of title deeds involve the mother-in-law of one of the promoters of Respondents 2 and 3 and the said corporate entities.

30. When these facts are viewed holistically and cumulatively, it is beyond all reasonable doubt that Respondents 2 and 3, their promoter and complicit directors, at the relevant time, which includes Respondents 4, 7 and 8, wilfully disobeyed the prohibitory order and the order of attachment. In this connection, as correctly pointed out by the learned senior counsel for the Applicant and the learned counsel for the RP of Respondent 2, Section 64 of the CPC declares that any private transfer of title or interest in a property that has been attached by an order of Court is void. There is no doubt that the alleged mortgage, in this case, is by way of private transfer by Respondents 2 and 3 in favour of Respondent 5. Hence, the said transfer by way of the alleged mortgage is void. In light of the above discussion and analysis, I conclude that the mortgage created over the property by the loan agreement dated 19.06.2009 is illegal, null and void because it contravenes the prohibitory order and attachment order. Consequently, the deposit of the original title deeds - in respect of the respective land parcels, by Respondent 3 and 2 on 01.04.2015 and 15.04.2016, respectively - with Respondent 5 and the registered memorandum of deposit of title deeds dated 10.05.2018 are also illegal, null and void. I further conclude that Respondents 2,3 (the Corporate Judgment Debtors) and Respondents 4, 7-8 are guilty of wilful disobedience of the orders of this Court. As regards Respondent 5, although she is a third party to the proceedings, as stated above, the

prohibitory order also prohibits third parties from receiving the property and the said order has, therefore, also been disobeyed by Respondent 5. Her close involvement in the affairs of the Judgment Debtors and other group companies is underscored by the fact that she guaranteed the debts of Respondent 3 and Manoharamma Hotel Investments (P) Ltd. and even agreed under the First Arbitral Award to adjust the amounts awarded to her as compensation against the dues of the above entities to Indiabulls. In addition, she is the mother-in-law of Manohar Prasad. In these facts and circumstances, I conclude that she wilfully disobeyed the orders. As stated above, the consequence of creating a mortgage in breach of the attachment order is that the mortgage is void as per Section 64 CPC. The above consequence follows irrespective of the commission of contempt. In this case, the conduct of the Corporate Judgment Debtors, their promoter, directors and Respondent 5 is also contumacious and the consequences thereof should be considered.

29. In my view, the Corporate Judgment Debtors, i.e. Respondents 2 and 3, were parties to the compromise consent decree and to the execution proceedings, including the attachment order and the prohibitory order. Being juristic persons, they acted through the agency of the promoter, namely, Manohar Prasad, whose central role is evident from the First Arbitral Award, which arose out of a transaction which is the basis for the alleged subsequent loan and the alleged security therefor; and the

complicit directors, i.e. Respondents 7 and 8, namely, Tarun Kumar and Sriramulu, who executed the registered memorandum of deposit of title deeds. However, Respondents 2 and 3 are currently managed by the respective RP and are subject to a moratorium. Ordinarily, in the facts and circumstances, I would have imposed a sentence of imprisonment on the promoter and complicit directors but I am not doing so partly because the Corporate Judgment Debtors are under a corporate insolvency resolution process. Thus, I impose a monetary penalty on the contemnors. Respondents 1 and 2 shall each pay a fine of Rs.2000 within two weeks from the expiry of the moratorium period. Respondents 4 and 7-8 shall each pay a fine of Rs.2000 within two weeks from the date of receipt of a copy of this order with a default sentence of 15 days of simple imprisonment. As regards Respondent 5, I concluded earlier that Respondent 5 is also complicit in such contumacious conduct. However, as a third party, in the overall facts and circumstances, I conclude that a sum of Rs.1,000/- should be paid as fine by Respondent 5 within two weeks from the date of receipt of a copy of this order with a default sentence of 7 days simple imprisonment. Nevertheless, in the overall facts and circumstances, undoubtedly, the contemnors should not be permitted to benefit from such contumacious conduct. This is ensured by declaring that the mortgage is void and also by directing that the original title deeds that were deposited by Respondents 2 and 3 with Respondent 5 should be

deposited with the Registrar General of this Court by Respondent 5. In the event of default, I am of the view that a fine would not suffice in as much as the contemnors would continue to profit from aggravated contumacious conduct. Therefore, in case of default, there will be a sentence of simple imprisonment of Respondent 5 for 15 days.

31. The other question that should be examined is the conduct of parallel proceedings both by the NCLT and by this Court. The current status is that the NCLT passed an order dated 22.06.2018 admitting C.P. Nos.709 and 710 of 2018. As a consequence of such admission, a moratorium was imposed by exercising power under Section 14 of IBC. Once a moratorium is imposed, civil proceedings against the company under insolvency resolution cannot be proceeded with until the moratorium period ends. In this case, the admitted position is that the moratorium is in force. The facts and circumstances of this case are, undoubtedly, unique inasmuch as there is sufficient evidence that the institution of proceedings before the NCLT is on the basis of the void mortgage and there is *prima facie* evidence that the loan agreement is a fraudulent device to defraud the stake holders of Respondents 2 and 3. However, I do not propose to enter definitive findings as regards the institution of proceedings before the NCLT. The NCLT is a statutory dispute resolution forum created under the Companies Act, 2013 and vested with special jurisdiction as the adjudicating authority under the

IBC. If this Court disregards the proceedings instituted before the NCLT by way of C.P. Nos.709 and 710 of 2018, it would, notwithstanding the extraordinary circumstances, tantamount to a constitutional authority interfering with the functioning of a statutory quasi-judicial authority. Therefore, I am of the view that the exercise of restraint, in this regard, would best subserve the cause of proper administration of justice. Consequently, I conclude that the question as to whether the NCLT proceedings are fraudulent and, more importantly, the sequitur of such determination are squarely within the remit of the NCLT. In this connection, it is possible that the NCLT may conclude that the very institution of the proceeding is fraudulent and may, therefore, treat the proceeding as a nullity. On the other hand, it is equally possible that the NCLT may either conclude that the financial creditor who instituted the proceeding did not commit a fraud or that she committed a fraud but may proceed to take measures for insolvency resolution on the basis that it is a proceeding *in rem* that affects all stake holders. If the NCLT adopts the first course of action and declares that the proceeding before the NCLT is a nullity, this Court would be in a position to proceed with the auction sale of the property. On the other hand, if the NCLT decides to proceed with insolvency resolution notwithstanding conclusions with regard to Respondent 5, there would be a conflict if this Court proceeds with *in personam* execution proceedings in the meantime. Therefore, I propose

to keep the auction sale proceedings in abeyance until the NCLT decides on the maintainability of C.P. Nos.709 and 710 of 2018 and matters incidental or consequential thereto.

Accordingly, these Applications are disposed of as follows:

(i) Respondents 2-5, 7-8 are held guilty of wilful disobedience of the Prohibitory Order dated 21.04.2005 and the order of attachment dated 25.04.2005 in E.P. No.194 of 2004.

(ii) The alleged mortgage created by the loan agreement dated 19.06.2009 is hereby declared as illegal, null and void.

(iii) As a corollary, the deposit of original title deeds by Respondents 3 and 2 on 01.04.2015 and 15.04.2016, respectively, and the registered memorandum of deposit of title deeds dated 25.05.2018 are also declared as illegal, null and void.

(iv) Consequently, Respondent 5 is directed to deposit the original title deeds of the property attached by this Court with the Registrar General of this Court within two weeks from the date of receipt of a copy of this order. The said documents shall be held in *custodia legis* subject to further orders in E.P. No.194 of 2004. In the event of non-compliance, Respondent 5 shall serve a sentence of simple imprisonment for 15 days. This would be without prejudice to any other action by the Applicant in this regard.

(v) Respondents 2 and 3 shall each pay a fine of Rs.2,000/-(Rupees two thousand only) for wilful disobedience of the orders of this Court within two weeks from the date of expiry of the moratorium, failing which a sentence of 15 days simple imprisonment shall come into effect.

(vi) Respondents 4, 7-8 shall each pay a fine of Rs.2,000/-(Rupees two thousand only) for wilful disobedience of the orders of this Court within two weeks from the date of receipt of a copy of this order, failing which a sentence of 15 days simple imprisonment shall come into effect.

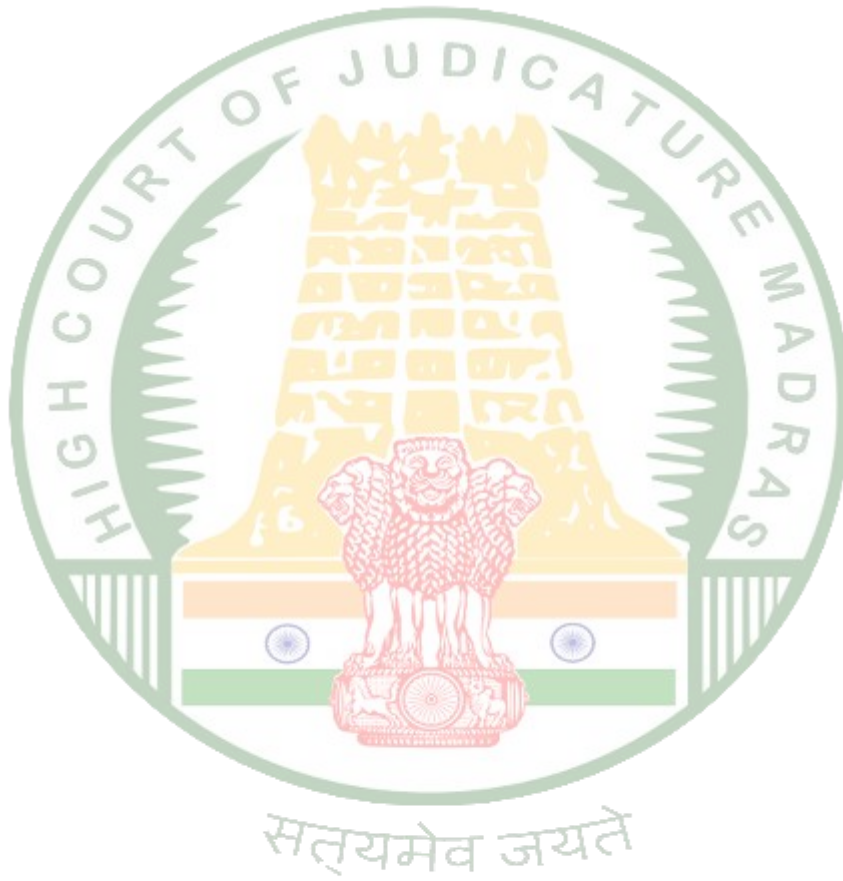
(vii) Respondent 5 shall pay a fine of Rs.1,000/-(Rupees one thousand only) for wilful disobedience of the orders of this Court within two weeks from the date of receipt of a copy of this order failing which a sentence of 7 days simple imprisonment shall come into effect..

(viii) The auction sale proceedings shall be deferred until the NCLT determines whether C.P. Nos.709 and 710 of 2018 are maintainable and also decides on matters incidental or consequential thereto.

(ix) Consequently, the Applicant is granted leave to re-apply, if appropriate, if the NCLT decides that the IBC proceedings are a nullity.

26.05.2020

Speaking/non Speaking order
Index: Yes/No
Internet: Yes/No
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A.Nos.6897 & 6898 of 2019 in
E.P.No.194 of 2004

SENTHILKUMAR RAMAMOORTHY, J.

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Pre Delivery order
in
A.Nos.6897 & 6898 of 2019
in
E.P.No.194 of 2004

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26.05.2020