IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11394 OF 2017

M/S GALAXI PAPER INDUSTRY THROUGH PARTNER NIRMAL ANANDRAJ TATIA JAIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for Petitioners : Ms. Mahajan Surekha P
AGP for Respondents/State: Mr. S. G. Sangle
Advocate for Respondent Nos.2 & 3: Mr. V. J. Dixit (Senior Advocate) a/w Mr. A. N. Nagargoje in Writ Petition No.14626/2019
...

CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.

DATE : 20th December, 2022

PER COURT :

1. This Court had granted ad-interim relief to the petitioner on the statement that the petitioner would deposit Rs.50,00,000/- with the bank. The petitioner stated that out of the recoverable amount of Rs.1,37,65,000/- as on 31.12.2016, a sum of Rs.33,22000/- has been paid and further amount of Rs.50,00,000/- would be paid. This Court, therefore, directed vide order dated 18.09.2017 that the petitioner would deposit the amount as undertaken within one week, in the bank. On the condition of deposit of amount as undertaken by the petitioner, a coercive action was restrained against the petitioner under Section 13(4) of SARFAESI Act.

2. It is informed that four cheques were subsequently issued by the petitioner towards the Bank as a part of 'One Time Settlement' (OTS) proposal. It is contended that an amount of Rs.18,20,000/- was transferred by the Bank to the loan account. Two cheques for amounts of Rs.35,00,000/- and Rs.32,00,000/- were admittedly dishonored and Section 138 proceedings are pending.

3. Shri. Nagargoje, the learned Advocate submits that even if the amount of Rs.18,20,000/- is deducted from the amounts of the dishonored cheques, the outstanding amount is somewhere around Rs.48,80,000/-. The outstanding amounts , by adjusting all amounts that were paid, is Rs.1,55,76,157/- as on 31.01.2022. The petitioner has the remedy of approaching the Debts Recovery Tribunal (for short 'DRT') under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'),

4. The learned Advocate for the petitioner submits, on instructions, from the petitioner, who is present in the Court that the petitioner desires to withdraw the present petition and approach the DRT. It is prayed that the ad-interim protection, granted against coercive action, may be continued. Shri. Nagargoje, the learned Advocate submits that the amount as outstanding on 31.01.2022 may be paid.

5. Considering the above, and since the dishonored cheques were for an amount of Rs.48,80,000/-, the petitioner agrees to deposit Rs.20,00,000/- with the Bank, on or before 06.01.2023 and prays for four (4) weeks of protection, in terms of the ad-interim order. Shri Nagargoje strongly opposes.

6. In view of the above, the petition is disposed off as withdrawn, with liberty to approach the DRT. On the condition that Rs.20,00,000/- be deposited with the Bank, on or before 05.01.2023, the protection granted by this Court would continue upto 20.01.2023. All contentions of the parties are left open.

7. Needless to state, if the amount as mentioned above is not deposited with the Bank, the respondent/Bank would be at liberty to proceed with its proposed action from 07.01.2023.

8. Needless to state, the DRT would not be influenced by the ad-interim protection that was granted by this Court earlier, which was always a conditional order.

(SANJAY A. DESHMUKH, J.) **(RAVINDRA V. GHUGE, J.)**

Sameer