IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.16820 OF 2022
IN
WRIT PETITION NO.7360 OF 2022

M/s. Mithila Polyster Pvt. Ltd. : Applicants
Through Director Ashwanikumar Mishra & ors. : Petitioner Nos.1,2,4 & 5

In the matter betwee

M/s. Mithila Polyster Pvt. Ltd.
Through Director Ashwanikumar Mishra & ors. : Petitioners.
versus
Punjab and Sind Bank and ors. : Respondents.

Mr. Yatin R Shah for Applicants/Petitioners.
Mr. Karl Shroff a/w Ms. D B Raghani i/by Haridas & Co for Respondent No.1.

CORAM : K. R. SHRIRAM &
A.S. DOCTOR, JJ.
DATED : 20th AUGUST 2022

P.C.

1 In Interim Application that is taken out on or about 12th July 2022, Petitioners are seeking two reliefs, viz., (a) to stay all further proceedings for auction of the secured assets being Flat No.1 (Now renumbered as C-101) in ABC Zora Aghadi Nagar CHS Ltd 1st Floor, C-Building, Yari Road, Versova, as also proposed proclamation of the same dated 08th June 2022; and (b) to direct Respondent No.1 – Bank to provide the details of the amount of dividends received by Respondent No.1 against shares pledged by

Applicants/Petitioners and to also furnish correct and exact statement of account in respect of pledged shares with Respondent No.1-Bank.

2 As regards secured asset, the flat referred to in prayer clause (a), Mr. Shroff, for Respondent No.1, states that sale has already taken place and auction purchaser has paid the entire consideration to Respondent No.1 on 20th July 2022. Since sale is already completed, question of granting prayer clause (a) would not arise and more particularly, granting of any stay at this stage would only result in a third party suffering loss. We would lean in favour of third party in this case particularly because Applicants/Petitioners were admittedly borrowers and had not paid back the borrowed amount. However, by a separte orer we have rejected the writ petition as well.

3 As regards prayer (b), viz., providing the details of the amount of dividends received by Respondent No.1 against shares pledged by Applicants/Petitioners and to also furnish correct and exact statement of account in respect of pledged shares with Respondent No.1-Bank, Mr. Shroff, for Respondent No.1, undertakes to this Court to provide full and complete information and details to Applicants/Petitioners within two weeks from today. Mr. Shroff states that these details have already been provided to Petitioners earlier also. Undertaking accepted. This undertaking has to be fulfilled, notwithstanding dismissal of the writ petition.

4 Mr. Shah for Petitioners stated that the DRT had directed Respondent No.1 to dispose the shares within three months and as Respondent No.1 delayed in disposing these shares within three months, the amount recovered on sale of those shares were less than what the bank would have recovered.

5 In our view, Petitioners could raise all these points before the recovery officer or in any other appropriate proceedings against Respondent No.1.

6 Above interim application accordingly disposed.

7 All rights and contentions of parties are kept open.

8 For completion of record, Registry to take rejoinder on record.

[A.S. DOCTOR, J] **[K. R. SHRIRAM, J]**