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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

NOTICE OF MOTION NO. 1323 OF 2017
IN
SUIT NO. 3411 OF 1991

Canara Bank .. Applicant / Plaintiff

Versus

Union of India and Ors. .. Defendants

....

- Mr. Ashish Mehta a/w. Mr. Arya More i/by Ethos Legal Alliance for the Applicant / Plaintiff.
- Mr. Nirmal C. Mohanty, Advocate for Defendant Nos.2 and 3.

....

CORAM : MILIND N. JADHAV, J.
DATE : AUGUST 04, 2023.

P.C.:

1. Heard Mr. Mehta, learned Advocate for Applicant / Plaintiff and Mr. Mohanty, learned Advocate for Defendant Nos.2 and 3.

2. This Notice of Motion was heard by this Court on 18.04.2023 and the following order was passed:-

> *" The above The above Notice of Motion is filed by the Plaintiff bank against the Income Tax Authorities to direct them to accept the amount of Rs.18,91,492/- with accrued interest and to give them a NOC for registration of conveyance in compliance of the Decree dated 28th February, 2008 passed in Suit No.474 of 1990.*
>
> *2 Suit No.474 of 1990 was filed by the Plaintiff bank inter alia against Defendant No.4 (who is currently in liquidation) for specific performance of an Agreement dated 21st March, 1984. Since at the relevant time, the NOC of the Income Tax Department was required for sale of immovable property, the same was applied for but not granted because an amount of Rs.18,91,492/- was due and payable as tax arrears by the 4th Defendant Company. Thereafter, notices were issued by the*

> *Income Tax Department and which have been challenged in the above Suit. In the above Suit, the Plaintiff bank had initially filed Notice of Motion No.2627 of 1991 in which ad-interim reliefs were rejected. That order was subjected to an Appeal before a Division Bench of this Court. A Division Bench of this Court, on 13th June, 1996, recorded the statement of the Plaintiff bank that they will deposit the sum of Rs.18,91,492/- with the Prothonotary and Senior Master. This has been duly done and the same has also been invested from time to time. A report of the Registry is also before the Court which shows that the deposit created together with interest is approximately Rs.1.25 Crores. This Fixed Deposit is due on 4th November, 2023. It is in these circumstances that, the above Notice of Motion is filed seeking a direction to Defendant Nos.1 to 3 to accept the amount of Rs.18,91,492/- together with accrued interest thereon and issue a NOC for registration of the conveyance obtained by the Plaintiff bank in Suit No.474 of 1990.*
>
> *3 Mr. Mohanty, the learned counsel appearing on behalf of Defendant Nos.2 & 3 has stated that according to the calculations of the Income Tax Department, the dues that would be payable to the Income Tax Department, as on date, would be approximately Rs.1.07 Crores.*
>
> *4 Considering that the amount that has accrued in the Fixed Deposit is more than the aforesaid amount, Mr. Mohanty requested that the matter be kept some time in June 2023 to enable him to take instructions from the Income Tax Department so that the entire matter can be brought to an end.*
>
> *5 Considering the fair stand taken by the Income Tax Department, the above matter is adjourned to 20th June, 2023. In the meanwhile, Mr. Mohanty is requested to take the necessary instructions from the Income Tax Department to try and see if the entire dispute in the present Suit can be resolved by the next date.*
>
> *6 Stand over to 20th June, 2023.*
>
> *7 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order."*

3. Today, in compliance of the directions contained in the above order, Mr. Mohanty has placed on record the letter dated 14.06.2023 issued by Prashant R. Bachhav, Tax Recovery Officer–6, Mumbai in respect of the issue which is before the Court in the Notice of Motion.

4. The said communication conveys the approval of the Principal Commissioner of Income Tax – 6, Mumbai for giving its no objection to revoke the attachment made by Tax Recovery Officer and issue the NOC towards execution of the conveyance deed in favour of the Plaintiff subject to the Revenue Department receiving the amount of Rs.1,07,90,960/- and any further interest, if any, till the date of passing of this order towards its outstanding dues. The said letter states that the interest calculation has been computed till 31.07.2023 on the presumption that the outstanding demand shall be disbursed to the Income Tax Department by the said date. Considering this order passed today i.e. 04.08.2023, learned Prothonotary and Senior Master of this Court is directed to break the fixed deposit, if any, in respect of the amount which is lying with him and pay the amount of Rs.1,07,90,960/- to the Income Tax Department within a period of one week from today.

5. Mr. Mehta would submit that he has taken inspection from the record of the proceedings and has been given to understand that the total amount lying in the Suit account as on date is in excess of Rs.1.25 crores. If that be the position then the demand of the Income Tax Department shall be fully covered and can paid over to the Income Tax Department.

6. Mr. Mohanty is directed to inform the learned Prothonotary and Senior Master of this Court the procedure for effecting the transfer of the above amount to the Income Tax Department. Once the amount is paid over, the Plaintiff is at liberty to apply for disposal of the Suit considering the submissions made by Mehta today.

7. With the above directions, Notice of Motion is disposed.

[MILIND N. JADHAV, J.]

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AJAY TRAMBAK UGALMUGALE

Digitally signed by AJAY TRAMBAK UGALMUGALE Date: 2023.08.04 19:56:49 +0530