



C.R.P.No.2659 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

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State Bank of India,
rep. by its Assistant General Manager,
Stressed Asset Management Branch,
Red Cross Building, Montieth Road,
Egmore, Chennai-8.

.. Petitioner

Vs

1.M/s.Aban Holdings Pte. Ltd.,
rep. by its Managing Director Reji Abraham,
Administrative Office at: Jan Priya Crest,
No.113, Pantheon Road, Egmore,
Chennai-600 008.

2.Reji Abraham

.. Respondents

Prayer: Petition filed under Article 227 of the Constitution of India
against the order dated 12.10.2022 passed in M.A.No.10 of 2019 on
the file of DRAT, Chennai.



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For the Petitioner : Mr.M.L.Ganesh

For the Respondents : Mr.R.Srinivasan
for M/s.R & P Partners
for respondents 1 and 2

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.M.L.Ganesh, learned counsel for the petitioner; and, Mr.R.Srinivasan for M/s.R & P Partners, learned counsel for the respondents.

2. The application for attachment under Section 19(1) of the Recovery of Debts and Bankruptcy Act, 1993 (for short, "*the RDB Act*") is rejected.

3. The Original Application filed by the bank for recovery of the amount is pending with the Debts Recovery Tribunal.



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4. The ground on which the application of the petitioner for attachment is rejected is that the conditions contemplated under Sub-section 13(A) of Section 19 of the RDB Act are not fulfilled.

5. On the last date, we had asked learned counsel for the respondents as to whether the respondents would file an affidavit that during the pendency of the Original Application the respondents would not alienate, create third party interest or change the nature of the said property.

6. Today, learned counsel for the respondents relies upon the Deed of Guarantee, more particularly Clause 15, to submit that an undertaking is given in the Deed of Guarantee not to sell, transfer, encumber, charge, pledge, hypothecate, mortgage or create any lien on all or any of the properties and/or other properties acquired or inherited thereafter, except as provided for in the financing documents without the written permission of the State Bank of India.

7. As a Clause exists in the Deed of Guarantee to the effect that



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the guarantor shall not sell, transfer or alienate or create any lien on the properties without the written permission of the State of Bank of India, no separate affidavit is filed.

8. In the light of the said Clause relied upon by learned counsel for the respondents in the Deed of Guarantee, the respondents shall not alienate or create any third party interest or change the nature of the said properties till the disposal of the Original Application or until further orders to be passed by the Presiding Officer of the Debts Recovery Tribunal. The respondents are certainly entitled to raise all defences available to them while contesting the Original Application.

9. With these observations, the civil revision petition stands disposed of. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

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