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C.R.P.No.4405 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

C.R.P.No.4405 of 2024

and

C.M.P.No.24486 of 2024

M/s.Bharani Properties and Developers Pvt. Ltd.,
601, Anna Salai,
Chennai – 600 006.

Represented by its Director K.Bapaiah

... Petitioner

Vs.

Ms.Rajashree Santhanam
Liquidator of
M/s.Anandram Developers Private Limited,
B 1102, Metrozone,
44 Pillaiyar Koil Street,
Anna Nagar (Next to VR Mall)
Chennai – 600 040.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned order dated 28.08.2024 passed in I.A.No.87 of 2024 in Company Appeal (AT) (CH) (Ins) No.42 of 2022 by the National Company Law Appellate Tribunal, Chennai.



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For Petitioner : Mr.V.Prakash
Senior Counsel
for M/s.Iyengar Shubharanjani Ananth

For Respondent : Mr.E.Om Prakash
Senior Counsel
for Mr.B.Dhanaraj

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order of the National Company Law Appellate Tribunal at Chennai in I.A.No.87 of 2024 in Company Appeal (AT) (CH) (Ins) No.42 of 2022, dated 28.08.2024.

2.Brief facts that are necessary for the disposal of this Revision Petition are as follows :

The petitioner is the appellant before the National Company Law Appellate Tribunal as against the order dated 26.11.2021 in CA (CAA)/5/2021 in MA/463/IB/2019 preferred in CP/603/IB/2017. Originally, the Appellate Tribunal granted stay of the order impugned before the



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Appellate Tribunal. Later, taking note of the fact that the Appeal itself was filed along with Interlocutory Application to condone the delay, the Tribunal held that no appeal can be considered to exist on the date when the interim stay was granted by the Tribunal earlier. It was therefore, the Appellate Tribunal, by order dated 28.08.2024, vacated the interim order granted on 07.02.2022 in the Interlocutory Application. As against the said order, the above Revision Petition is filed.

3.It is not in dispute that the interim stay granted was vacated by a common order dated 28.08.2024 and that one of the parties challenged the same before the Hon'ble Supreme Court. It is admitted that the learned Senior Counsel appearing for the petitioner in this Civil Revision Petition had also appeared for the other party before the Hon'ble Supreme Court. The Hon'ble Supreme Court has passed the following order on 14.11.2024 :

“It is pointed that the application for condonation of delay has been allowed by the National Company Law Appellate Tribunal at Chennai.

In view of the aforesaid position, the appellant, M/s.Manoharamma Hotel Investments Pvt. Ltd., can move the NCLAT by way of a fresh application for stay or revival of the



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earlier application for stay, which prayer, if made, will be considered and examined in accordance with law and on merits.

The impugned order will not operate as res-judicata as it is based on technical grounds and not on merits.

Recording the aforesaid, the appeal is dismissed.

Pending application(s), if any, shall stand disposed of.”

4.Learned Senior Counsel appearing for the petitioner submitted that there is no delay. This Court is convinced that the Appeal was presented in time by the petitioner, who is entitled to exclude certain period. When this Court is convinced that there is no delay in the Appeal, the order of the Tribunal cannot be sustained.

5.However, learned Senior Counsel appearing for the respondent submitted that the Revision Petition itself is not maintainable in view of the limited supervisory jurisdiction of this Court in entertaining the Civil Revision Petition. Learned Senior Counsel appearing for the petitioner and the respondent have relied upon a few judgments in support of their contentions. However, this Court is also informed that the Appellate



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Tribunal has reserved orders in the main Company Appeal which is pending before it. Therefore, it is not necessary to complicate further by going into the legal issues at this moment. In view of the fact that the interim stay ought not to have been vacated on the ground that the delay had not been condoned, this Court is of the view that the order vacating interim stay should be set aside.

6.As a result, this Civil Revision Petition is allowed to the extent that the order passed by the Tribunal vacating the interim order is inappropriate. As a consequence, there shall be an order of stay till the Company Appeal itself is disposed of by the Appellate Tribunal on merits. Since this Court has not decided as to the maintainability of the Revision Petition, the question is left open. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (P.D.B., J.)
06.12.2024

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To
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The National Company Law Appellate Tribunal,
Chennai.

S.S. SUNDAR, J.
and
P. DHANABAL, J.



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