IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.12.2024

Pronounced on : 13.12.2024

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THE HONOURABLE MR JUSTICE P.B. BALAJI

Arb Appln. 183 of 2024

EICHER MOTORS LIMITED
HAVING ITS REGISTERED OFFICE AT 3RD FLOOR, SELECT CITYWALK, A-3, DISTRICT CENTRE SAKET, NEW DELHI 110 017, REPRESENTED BY ITS AUTHORISED SIGNATORY ALSO AT HEAD QUARTERS, ROYAL ENFIELD, 296, RAJIV GANDHI SALAI (OMR) SHOLINGANALLUR, CHENNAI 600 119.

APPELLANT(S)

Vs

FORTE SOLUTIONS PRIVATE LIMITED AND ANOTHER
HAVING ITS REGISTERED OFFICE AT NEW NO.20, OLD NO.16, 3RD CROSS STREET, WEST C.I.T.NAGAR, CHENNAI 600 035 ALSO AT NEW NO.528, ANNA SALAI, TEYNAMPET, CHENNAI 600 018. AND ANOTHER

RESPONDENT(S)

For Appellant(s):

M/S. KING AND PARTRIDGE
JOSE JOHN
M.NARENDRAN

For Respondent(s):

P/N-R1-LEFT
P/N-R2- MRS.MALA PONNUSAMY DIRECTOR-FORTE SOLUTIONS PRIVATE LIMITED, RANI MEYYAMMAI TOWERS, BLOCK VII, 6TH FLOOR

- FLAT 6B, NEW NO.90/B6/276, OLD NO.66, SATHYADEV AVENUE, RAJA ANNAMALAIPURAM, MRC NAGAR, CHENNAI 600 028. (UNCLAIMED)
P/N-R3-SOUTH INDIAN BANK LTD REGIONAL OFFICE AT NO.43, GROUND FLOOR, HAMEEDIA CENTRE, HADDOWS ROAD, NUNGAMBAKKAM, CHENNAI 600 006. (DELIVERED)
P/N-AOS.D.NO.13145, DT. 15/04/2024
C/N-R1- RETURNED
C/N-R2-VACATED

ORDER

This application has been filed to direct a forensic audit to be conducted by an independent Chartered Accountant on the financial transactions of the respondents 1 and 2.

2.I have heard Mr.M.Narendran, learned counsel for M/s.King and Partrige, learned counsel for the applicant. Despite service of notice, the respondents 1 and 2 have chosen to stay away from appearance.

3.The learned counsel for the applicant would submit that the applicant was already directed by interim orders of this Court in O.A.No.260 of 2024. However, he would submit that there has been serious violation of not only provisions of the Companies Act but also the RBI Master Circular and in view of the same it has therefore become necessary to lift the corporate veil of the first respondent and unless a forensic audit is conducted, true facts may not come to light. He would place reliance on the following decisions in support of his contention:

1.LIC Vs. Escorts Ltd. : (1986) 1 SCC 264.

2.DDA Vs. Skipper Construction Company (P) Ltd. : (1996) 4 SCC 622.

3.Acrelormittal (India) (P) Ltd. Vs. Satish Kumar Gupta : (2019 2 SCC 1.

4.Balwant Rai Saluja Vs. Air India Ltd : (2014) 9 SCC 407.

He would therefore contend that it is permissible in the facts of the present case also to invoke the exercise of scrutinizing the accounts of the respondents 1 and 2 by conducting a forensic audit.

4.I have gone through the affidavit filed in support of the application and also the supporting documents.

5.This Court has already granted an order restraining the respondents and Director of the first respondent company from alienating their properties and the said injunction order has also been made absolute by order dated 28.03.2024. The respondents have also not come forward to deny the averments set out in the affidavit with regard to the allegations of violation of the statutory norms and circulars as contended by the applicant. Unless a forensic audit of the respondents 1 and 2 is conducted and an investigation report is filed by an independent Chartered Accountant, this Court will not be in a position to assess the acts and omissions of the respondents, especially, in the light of the serious allegations of defrauding creditors of the first respondent by syphoning of funds. Therefore, I inclined to entertain the application and the same is ordered.

6.Accordingly, I appoint **Mr.R.Balachandran, Chartered Accountant, Flat 3B, 3rd Floor, III Block, Bajaj Apartments, 4, Nandanam Extension 1st Main Road, Nandanam, Chennai 600 035. (Mobile Nos: 9884350000 & 9444258090),** to forensically examine the accounts of the respondents 1 and 2. The Chartered Account is entitled to fix his fees. The parties shall cooperate through their respective counsel and furnish copies of all relevant documents to the above said Chartered Accountant, to enable him to go into the same and give his findings. The report of the Chartered Accountant is returnable by 20.01.2025.

8. Post the matter on 20.01.2025.

13-12-2024

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To

1.FORTE SOLUTIONS PRIVATE LIMITED AND ANOTHER
HAVING ITS REGISTERED OFFICE AT NEW NO.20, OLD NO.16, 3RD CROSS STREET, WEST C.I.T.NAGAR, CHENNAI 600 035 ALSO AT NEW NO.528, ANNA SALAI, TEYNAMPET, CHENNAI 600 018.

2.MRS.MALA PONNUSAMY
DIRECTOR- FORTE SOLUTIONS PRIVATE LIMITED, RANI MEYYAMMAI TOWERS, BLOCK VII, 6TH FLOOR - FLAT 6B, NEW NO.90/B6/276, OLD NO.66, SATHYADEV AVENUE, RAJA ANNAMALAIPURAM, MRC NAGAR, CHENNAI 600 028.

P.B.BALAJI,J.
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