

(2012) 10 GUJ CK 0061

In the Gujarat High Court

Case No : Letters Patent Appeal No. 908 of 2012

Canara Bank

APPELLANT

Vs

Palco Recycle Industries Ltd.

RESPONDENT

Date of Decision : 11-10-2012

Acts Referred:

Companies Act, 1956 — Section 529, 529A
Constitution of India, 1950 — Article 226
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 11, 11(2), 7A, 8B(1)(a), 8F
Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) — Section 13, 13(4), 13(6)
Transfer of Property Act, 1882 — Section 69, 69A

Citation : AIR 2013 Guj 50 : (2013) 3 BC 213

Hon'ble Judges : Bhaskar Bhattacharya, C.J.; J.B. Pardiwala, J

Bench : Division Bench

Advocate : K.I. Shah, for the Appellant; A.S. Asthavadi and Bharat T. Rao, for the Respondent

Judgement

Bhaskar Bhattacharya, C.J.—At the time of hearing of this Letters Patent Appeal preferred by the respondent No. 2 of the Special Civil Application being SCA No. 17441 of 2011 against an order dated 25th June 2012 passed by a learned single Judge in Civil Application for interim relief being C.A. No. 1534 of 2012, we decided to hear out the writ-application itself, instead of remanding the matter back to the learned single Judge, as the questions involved are pure questions of law. The facts giving rise to the filing of this Letters Patent Appeal may be summed up thus.

1.1 The writ-petitioner is a Limited Company, registered under the Companies Act. The respondent No. 2 in the Special Civil Application, who is the appellant before us, issued a public advertisement dated 21st August 2010 in daily newspapers for sale of assets of M/s. Dairy Den Limited situated at survey No. 418 paiki Plot Nos. 18 to 25 and Survey No. 435 paiki at Lucky Industrial Estate, Kadi, Mehsana.

1.2 The writ-petitioner participated in the said auction and being the highest bidder of Rs. 4,01,51,000/-, purchased the said property and paid the full consideration of Rs. 4,01,51,000/-.

1.3 A Sale Certificate dated 18th September 2010 was issued by the Authorised Officer of the appellant, and the possession of the property was also handed over to the writ-petitioner. On receipt of the Sale Certificate, the writ-petitioner approached the Revenue authorities for getting the revenue records on 22nd September 2010 and according to the record obtained by the petitioner on that date, there was no clear mention of attachment of the PF Authorities on the property. Thereafter, registered sale-deed No. 9940 dated 14th December 2010 had been executed in favour of the writ-petitioner by the appellant before us.

1.4 Subsequently, the writ-petitioner approached the Revenue authorities for mutating its name in the revenue records. However, at that time, it was found that there was a charge of the Provident Fund Department to the tune of Rs. 37,60,159/-.

1.5 Immediately thereafter, the writ-petitioner approached the appellant informing them that there was a charge/attachment of the Provident Fund Department on the property sold to the writ petitioner and also complained that the appellant never revealed the said charge and in the sale certificate, made a categorical statement that "the sale of the scheduled property was made free from all encumbrances known to the secured creditors, on deposit of money demanded by the undersigned". The writ-petitioner also reminded the appellant that it had given a letter to the appellant on the day of the auction to confirm that there was no charge or encumbrance on the property to be auctioned and the appellant had informed and confirmed before all the participants of the auction that there was no charge or encumbrances on the property known to the Bank.

1.6 As the appellant Bank did not do anything further in the matter, the writ-petitioner issued a legal notice to the appellant on 13th July 2011 but there was no response from the appellant.

1.7 Subsequently, the writ-petitioner approached the PF authorities by its letter dated 27th July 2011 requesting to provide information regarding charge on the said property. The PF authorities, which is respondent No. 2 in this appeal, informed the writ-petitioner that it had attached the property on 16th March 2009 and that by its letter dated 18th February 2010, it had intimated the appellant Bank about the outstanding of the PF arrears.

1.8 Subsequently, the writ-petitioner issued a legal correspondence through its advocate on 18th October 2011 to the PF authorities and copy of the same was also sent to the appellant Bank. In the said correspondence, it was stated that the Bank had acted illegally by not disclosing the fact about the charge of the PF authorities although the PF authorities had clearly informed the Bank about the creation of such charge and also pointed out distorted version of advertisement

of the sale notice in respect of charge on the said property.

1.9 Subsequently, the Bank, by letter dated 9th November 2011 informed the writ-petitioner that it was contemplating appropriate steps by taking up the matter with the PF authorities.

1.10 As there was no proper response, the writ-petitioner came up before this High Court by filing Special Civil Application No. 17441 of 2011 under Article 226 of the Constitution of India thereby praying for the following relief.

19. The petitioner, therefore, prays that:

(A). Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent No. 3 to cancel/remove the charge/attachment of the PF authorities in the revenue record of the property purchased by the petitioner situated as Survey No. 418 paiki plot Nos. 18 to 25 adm. 10785.99 sq. mtrs. and survey No. 435 paiki adm. 7140 sq. mtrs. situated to direct the Resp. No. 3 mutate the name of the petitioner in the revenue record.

A-1 Hon''ble Court may be pleased to issue writ of mandamus or any other appropriate writ, order or direction directing the respondent No. 2 Bank to clear the dues of Provident Fund existing on the property purchased by the petitioner situated at Survey No. 418 paiki plot Nos. 18 to 25 adm. 10785.99 sq. mtrs. and survey No. 435 paiki adm. 7140 sq. mts. situated at Lucky Industrial Estate Kadi, Mehsana, in accordance with the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Security Interest (Enforcement) Rules, 2002.

B. Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent No. 1 to initiate appropriate action as envisaged under Employees Provident Funds and Misc. Provisions Act, 1952 against respondent No. 2.

C. During the pendency and final hearing of the present petition, Your Lordships may be pleased to direct respondent No. 3 to delete/remove the charge/attachment of the PF authorities in the revenue record of the property purchased by the petitioner and further direct the Resp. No. 3 mutate the name of the petitioner in the revenue record.

C-1. During the pendency and final hearing of the present petition. Your Lordships may be pleased to direct respondent No. 2 Bank to clear the dues of Provident Fund existing on the property purchased by the petitioner situated at Survey No. 418 Paiki Plot Nos. 18 to 25 admsns. 10785.99 sq. mtrs. and survey No. 435 paiki admn. 7140 sq. mtrs. situated at Lucky Industrial Estate, Kadi, Mehsana in accordance with the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Security Interest (Enforcement) Rules, 2002.

D. Such other and further relief as may be deemed fit and proper in the interest of justice may be granted.

1.11 In the said writ-application, the writ-petitioner also came up with an application for interim relief being Civil Application No. 1534 of 2012, praying for the following relief.

8. In view of the above it is prayed that:

(A). Your Lordships may be pleased to grant interim relief by directing the respondent No. 2 bank to clear the dues of the provident fund authorities existing on the property purchased by the petitioner situated at Survey No. 418 Paiki Plot Nos. 18 to 25 and survey No. 435 paiki situated at Lucky Industrial Estate, Kadi, Mehsana and direct the respondent No. 3 to delete the entry in the revenue record.

ALTERNATIVELY

Your Lordships may be pleased to direct respondent No. 3 to delete the charge of respondent No. 1 on the property situated at survey No. 418 paiki Plot Nos. 18 to 25 and Survey No. 435 paiki situated at Lucky Industrial Estate, Kadi, Mehsana on petitioner fulfilling such terms as deemed fit by this Hon"ble Court.

1.12 The said application was opposed by the appellant-Bank, and the sum and substance of the contention of the Bank was as follows:--

1.12.1 M/s. Dairy Den Limited, the debtor, is not impleaded as party-respondent despite the fact that the outstanding to the PF authorities was from the said defaulting firm, and, therefore, the application was not maintainable. It was denied that on 16th March 2009, the PF Department created any charge on the property. The Bank never accepted the charge of the PF Department and when the Bank had conducted the auction, the PF Department did not go to any judicial forum by challenging the action of the Bank.

1.12.2 The PF authorities could not establish that they executed any order of attachment. Once possession is taken by the Bank in the year 2007, the right, title and interest of the defaulter in the property came to an end and hence, the PF Department was not competent to attach the said secured asset which vested in the Bank.

1.12.3 The power conferred u/s 8F of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 [the of Act for short, hereafter] is against the employer and not against the Bank which had taken legitimate action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [the Securitisation Act for short, hereafter].

1.12.4 When the property was sold by the Bank, at that point of time, the defaulter establishment was not declared by any competent authority that it was insolvent and no order of winding up was passed against the defaulting establishment.

1.12.5 The PF Department has not established any prima facie case in law or on merits and thus, it has no right to seek any prayer against the Bank.

1.13 The Provident Fund authorities had filed separate affidavits, both in the Civil Application and the Special Civil Application and its contentions may be summed up thus:

1.13.1 The Provident Fund authorities had passed an order of attachment of immovable property of M/s. Dairy Den Limited by letter dated 16th March 2009 u/s 8F of the PF Act and are entitled to recover the amount under the PF Act together with damages, interest and penal interest from the immovable property of the said defaulting firm. According to provisions contained in section 8B(1)(a) of the PF Act, the Recovery Officer has the right to attach and sell the property of the defaulting establishment, which was accordingly attached by the PF Department. The PF Department, on 18th November 2010, informed the appellant Bank that the property which was put for auction by the Bank was under attachment of the PF Department vide its order dated 16th March 2009 and it was also brought to the notice of the appellant Bank that u/s 11(2) of the PF Act, the PF Department has statutory charge over the property of the defaulting establishment and it has overriding effect upon other preferential payment of other secured creditors. By virtue of judgment dated 8th November 2011 in the case of Employees Provident Fund Commissioner Vs. O.L. of Esskay Pharmaceuticals Limited, . section 11 of the Act creates a statutory charge over the property of the defaulting establishment and it overrides the claim of the secured creditor and the Financial Institutions. M/s. Dairy Den Limited had not deposited the PF contribution as per the provisions of the PF Act and had not remained present in the proceedings u/s 7-A of the Act in spite of ample opportunities having been granted by the Department. After the section 7-A proceedings, a Recovery Certificate has been issued by the authority and while enforcing the recovery, the authority has issued arrest warrant which was not stayed by the High Court against which the Director of M/s. Dairy Den Limited approached the Supreme Court wherein the Supreme Court stayed the arrest warrant on condition that the Director shall deposit a sum of Rs. 10 lakh with the PF authorities. The Department has to recover Rs. 55 lakh and unless and until the full amount has been deposited with the PF Department, the charge of the PF department cannot be removed or deleted in view of the provisions of section 11 of the PF Act.

1.14 As pointed out earlier, the learned single Judge, by order dated 25th June 2012, allowed the application for interim relief on the following conditions:-

(1). The applicant company shall file an undertaking before this Court within a period of one week from today to the effect that if the ultimate outcome in the present petition is against the applicant, then it would make the payment of the entire outstanding dues of the Provident Fund department for which the Provident Fund department is having the charge over the property in question.

(2). On such an undertaking being filed, the respondent Bank shall make payment of the entire dues of the Provident Fund department within a week thereafter.

(3). On fulfillment of the above conditions, the respondent Bank shall issue necessary certificate in favour of the applicant Bank disclosing the payment of the entire outstanding dues to the Provident Fund Department and subsequent release of the charge of the Provident Fund department over the property in question.

1.15 Being dissatisfied, Canara Bank, respondent No. 2 in the writ-application, has come up with the present appeal, and at the time of hearing of the said appeal, this Court decided to hear out the main Special Civil Application also, as there is no disputed question of fact and only pure questions of law arise for determination.

2. Mr. Shah, the learned advocate appearing on behalf of the appellant, did not dispute the fact that the PF authorities had, by letter dated 18th February 2010 informed his client about the attachment of the property by its order dated 16th March 2009. He also did not dispute the fact that in the auction notice it was clearly mentioned that to the best of the knowledge of the Bank, there was no encumbrances. He, however, raised a pure question of law, and according to him the moment the secured creditor, in exercise of powers conferred u/s 13(4) of the Securitization Act takes possession of the property, the title of the debtor vest in the secured creditor and such thing having occurred in the year 2007, the PF authorities had no right to create charge in 2009 over the property of a defaulter as at that point of time, the title of the defaulter had extinguished by act of taking possession by his client. Secondly, the Bank having decided to sell the property in the month of August 2010 by way of public auction on 18th September 2010, and the Bank having issued Sale Certificate in favour of the auction purchaser in the absence of any demand prior to the said date or after the auction by the Bank, the PF authorities have waived its right to recover the amount from the Bank.

3. In order to appreciate the first question raised by Mr. Shah, the provisions contained in section 13 of the Securitisation Act are required to be considered, which are quoted below:

13. Enforcement of security interest.-

(1). Notwithstanding anything contained in section 69 or section 69A of the Transfer of Property Act, 1882 (4 of 1882), any security interest created in favour of any secured creditor may be enforced, without the intervention of the court or tribunal, by such creditor in accordance with the provisions of this Act.

(2). Where any borrower, who is under a liability to a secured creditor under a security agreement, makes any default in repayment of secured debt or any instalment thereof, and his account in respect of such debt is classified by the

secured creditor as non-performing asset, then, the secured creditor may require the borrower by notice in writing to discharge in full his liabilities to the secured creditor within sixty days from the date of notice failing which the secured creditor shall be entitled to exercise all or any of the rights under sub-section (4).

(3). The notice referred to in sub-section (2) shall give details of the amount payable by the borrower and the secured assets intended to be enforced by the secured creditor in the event of non-payment of secured debts by the borrower.

(3A). If, on receipt of the notice under subsection (2), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower:

Provided that the reasons so communicated or the likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal u/s 17 or the Court of District Judge u/s 17A.

(4). In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely:-

(a) take possession of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset;

(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt:

Provided further that where the management of whole, of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security for the debt;

(c) appoint any person (hereafter referred to as the manager), to manage the secured assets the possession of which has been taken over by the secured creditor;

(d) require at any time by notice in writing, any person who has acquired any of the secured assets from the borrower and from whom any money is due or may become due to the borrower, to pay the secured creditor, so much of the money as is sufficient to pay the secured debt.

(5) Any payment made by any person referred to in clause (d) of sub-section (4) to the secured creditor shall give such person a valid discharge as if he has made

payment to the borrower.

(6) Any transfer of secured asset after taking possession thereof or take over of management under sub-section (4), by the secured creditor or by the manager on behalf of the secured creditors shall vest in the transferee all rights in, or in relation to, the secured asset transferred as if the transfer had been made by the owner of such secured asset.

(7) Where any action has been taken against a borrower under the provisions of sub-section (4), all costs, charges and expenses which, in the opinion of the secured creditor, have been properly incurred by him or any expenses incidental thereto, shall be recoverable from the borrower and the money which is received by the secured creditor shall, in the absence of any contract to the contrary, be held by him in trust, to be applied, firstly, in payment of such costs, charges and expenses and secondly, in discharge of the dues of the secured creditor and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(8) If the dues of the secured creditor together with all costs, charges and expenses incurred by him are tendered to the secured creditor at any time before the date fixed for sale or transfer, the secured asset shall not be sold or transferred by the secured creditor, and no further step shall be taken by him for transfer or sale of that secured asset.

(9) In the case of financing of a financial asset by more than one secured creditors or joint financing of a financial asset by secured creditors, no secured creditor shall be entitled to exercise any or all of the rights conferred on him under or pursuant to sub-section (4) unless exercise of such right is agreed upon by the secured creditors representing not less than three-fourth in value of the amount outstanding as on a record date and such action shall be binding on all the secured creditors:

Provided that in the case of a company in liquidation, the amount realised from the sale of secured assets shall be distributed in accordance with the provisions of section 529A of the Companies Act, 1956 (1 of 1956):

Provided further that in the case of a company being wound up on or after the commencement of this Act, the secured creditor of such company, who opts to realise his security instead of relinquishing his security and proving his debt under proviso to subsection (1) of section 529 of the Companies Act, 1956 (1 of 1956), may retain the sale proceeds of his secured assets after depositing the workmen's dues with the liquidator in accordance with the provisions of section 529A of that Act:

Provided also that the liquidator referred to in the second proviso shall intimate the secured creditors the workmen's dues in accordance with the provisions of section 529A of the Companies Act, 1956 (1 of 1956) and in case such workmen's dues cannot be ascertained, the liquidator shall intimate the

estimated amount of workmen's dues under that section to the secured creditor and in such case the secured creditor may retain the sale proceeds of the secured assets after depositing the amount of such estimated dues with the liquidator:

Provided also that in case the secured creditor deposits the estimated amount of workmen's dues, such creditor shall be liable to pay the balance of the workmen's dues or entitled to receive the excess amount, if any, deposited by the secured creditor with the liquidator:

Provided also that the secured creditor shall furnish an undertaking to the liquidator to pay the balance of the workmen's dues, if any.

Explanation.-- For the purposes of this sub-section,-

(a) "record date" means the date agreed upon by the secured creditors representing not less than three fourth in value of the amount outstanding on such date;

(b) "amount outstanding" shall include principal, interest and any other dues payable by the borrower to the secured creditor in respect of secured asset as per the books of account of the secured creditor.

(10) Where dues of the secured creditor are not fully satisfied with the sale proceeds of the secured assets, the secured creditor may file an application in the form and manner as may be prescribed to the Debts Recovery Tribunal having jurisdiction or a competent court, as the case may be, for recovery of the balance amount from the borrower.

(11) Without prejudice to the rights conferred on the secured creditor under or by this section, the secured creditor shall be entitled to proceed against the guarantors or sell the pledged assets without first taking any of the measures specified in clauses (a) to (d) of sub-section (4) in relation to the secured assets under this Act.

(12) The rights of a secured creditor under this Act may be exercised by one or more of his officers authorised in this behalf in such manner as may be prescribed.

(13) No borrower shall, after receipt of notice referred to in sub-section (2), transfer by way of sale, lease or otherwise (other than in the ordinary course of his business) any of his secured assets referred to in the notice, without prior written consent of the secured creditor.

4. A conjoint reading of all the sub-sections of section 13 indicates that after taking possession of the assets in terms of section 13(4) of the Securitisation Act, the secured creditor gets a right to sell the property for realization of its dues as if the sale has been made by the secured creditor himself. However, sub-section (8) of the said section clearly indicates that if the dues of secured creditor together with all costs, charges and expenses incurred by him are

tendered to the secured creditor at any time before the date fixed for sale or transfer, the secured asset shall not be sold or transferred by the secured creditor and no further steps shall be taken by him for transfer or sale of that secured asset. Therefore, even after taking possession, if before sale of the property, a debtor pays the amount as mentioned in sub-section (8) to the secured creditor, in that event no further steps should be taken by the secured creditor and the debtor will be entitled to get back the possession. The aforesaid provision does not support the contention of Mr. Shah that on taking possession of the property, the title of the debtor extinguishes and it vests in the secured creditor. As indicated earlier, the secured creditor, on taking possession, merely gets a right to sell the property on behalf of the debtor and any sale made by the secured creditor should be deemed to be a sale made by the debtor himself. If we accept the contention of Mr. Shah that on taking possession, the title vests in the secured creditor and right of the debtor extinguishes automatically, in that case, on tendering of the amount due in terms of sub-section (8), a fresh deed was required to be made by the secured creditor in favour of the debtor for re-conferring title. Sub-section (6) clearly states that the assets transferred by the secured creditor after taking possession should be treated to be a transfer made by the owner. Thus, we are unable to accept the contention of Mr. Shah that title of the debtor is extinguished on taking possession in terms of section 13(4) of the Securitisation Act. Mr. Shah, in this connection, strongly relied upon a decision of the Bombay High Court in the case of UCO Bank Vs. Kanji Manji Kothari and Co. and Others, and drew our attention to paragraph 53 of the judgment. Paragraph 53 of the said judgment is quoted below:

53. In our opinion, in the light of the exposition of law made by the Supreme Court in *Mardia Chemicals Ltd. Vs. Union of India (UOI) and Others Etc. Etc.*, and *Transcore Vs. Union of India (UOI) and Another*, , it must be held that under the scheme of NPA Act and the said Rules, taking over possession of the secured assets and sale of the secured assets are two distinct and different concepts. The borrower's right, title and interest in the secured assets is extinguished the moment measures u/s 13(4) are taken such as taking over symbolic or actual possession of the secured assets. He can make a grievance that those measures were not taken in accordance with the provisions of the NPA Act. Thereafter, he has no right to appeal against any steps taken towards sale.

5. By relying upon the aforesaid observation of the Division Bench, Mr. Shah contends that the borrower's right, title and interest extinguishes the moment measures u/s 13(4) are taken. With great respect to the Honourable Judges of the Division Bench of the Bombay High Court, we are, however, unable to accept the aforesaid proposition. It appears that the attention of the Division Bench was not drawn to sub-section (8) of section 13 of the Securitisation Act and the exact language used in sub-section (6), which do not support the contention that title of the property of the debtor extinguishes on taking actual or symbolic possession.

6. We thus find no substance in the aforesaid contention of Mr. Shah.

7. As regards the other contention raised by Mr. Shah that no demand was made by the PF authorities before the sale was conducted, we find that the same is not tenable in view of the fact that the Bank has admitted that the creation of the charge was communicated to it before the advertisement for sale and even after the advertisement for sale was given alleging that there was no encumbrances, the PF authorities specifically drew the attention of the Bank that such assertion is totally wrong as there was a valid charge on the property. Once a valid charge is created by virtue of operation of law, the question of demand is immaterial. Thus, the second question raised by Mr. Shah is of no avail.

8. Mr. Shah lastly contended that in this writ-application, no direction can be given upon his client to pay the PF dues which the PF authorities have not enforced their right.

9. We have already pointed out that it was the appellant Bank and its authorized officers who deliberately gave a false declaration to the public in general that there was no encumbrance and even though the PF authorities drew their attention, it did not care to rectify itself or communicate to the proposed purchasers that the property had existing encumbrance. In this case, the Bank, by giving a wrong declaration having induced the writ-petitioner to change its position by payment of a huge amount of Rs. 4 Crore and odd, now cannot turn around and say that the additional liability which is a charge on the property, should also be borne by the purchaser. We have already pointed out that in terms of section 13(6) of the Securitisation Act, the secured creditor sells on behalf of original debtor and thus, if it does not disclose the defect in the title, it is for him to rectify the mistake. If there was no mistake on the part of the Bank and it was pointed out in the advertisement that it is subject to encumbrance of the PF Department, the writ-petitioner would have been bound to pay that amount to the PF authorities, but the seller having deliberately made a misstatement about encumbrance attached to the property, the liability should come upon the shoulder of the seller, viz. the appellant before us. We, therefore, find that it is a fit case where the Bank should be directed to pay the amount payable to the PF department by virtue of its charge created on the property. We, accordingly, dispose of the Letters Patent Appeal and the main writ-application by directing the appellant Bank to pay the charged amount to the PF department within six weeks from today. We further declare that the writ-petitioner will have no liability to pay the said amount and it will be the liability of the appellant to pay the amount as if the charge is enforceable against the appellant as representative of the original defaulter. The LPA and the writ-application are thus disposed of in terms of the above order.

10. We make it clear that if the Bank wants to dispute the amount of due payable by the defaulting establishment to the PF authorities, it can seek appropriate remedy before the appropriate forum in accordance with law. We have not gone into such question in this proceedings. In view of the disposal of the LPA and the

main writ-application, the connected Civil Application has become infructuous and the same is disposed of accordingly.

11.1 In the facts and circumstances of the case, however, there will be no order as to costs.