
(1997) 03 MAD CK 0098

In the Madras High Court

Case No : C.R.P. No. 122 of 1997 and C.M.P. No. 590 of 1997

Messrs. Standard Metal Industries

APPELLANT

Vs

Indian Overseas Bank and Another

RESPONDENT

Date of Decision : 31-03-1997

Acts Referred:

Companies Act, 1956 — Section 3

Sick Industrial Companies (Special Provisions) Act, 1985 — Section 22

Citation : (1997) 2 LLJ 1032 : (1997) 2 MLJ 7

Hon'ble Judges : K. Govindarajan, J

Bench : Single Bench

Advocate : V. Raghavachari, for the Appellant; G. Desinghu, for the Respondent

Judgement

K. Govindarajan, J.—The defendants who failed in their attempt to stay the suit O.S. No. 523 of 1989 on the file of the Sub Court, Vellore (I.A. No. 38 of 1996) I have filed the above revision petition. The plaintiff filed the above suit against the defendants seeking a decree for a sum of Rs. 38,669 with future interest at the rate of 10% p.a. until payment in full. It is not in dispute that the first defendant is the proprietary concern. Unfortunately, the petitioners/defendants filed a petition under Sec. 22 of the Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter called "the Act") to stay all further proceedings in the suit till the proceedings under the said Act by the Department are over. According to the petitioners, the first defendant has to be declared as a sick industry and they have initiated the proceedings for a declaration that the first defendant company as a sick industry as per the provisions of the Act. So, on that basis the petitioners want to suspend the legal proceedings. The trial Court after considering the issues raised before it, rejected the petition, as the same cannot be sustained. Aggrieved against the same, the above revision petition is filed.

2. The learned counsel for the petitioners has submitted that since the proceedings under the Act is pending, it is mandatory on the part of the civil

Court to stay the proceedings, pending before it. In support of his submission, the learned counsel cited a decision reported in *M/s. Celvil Enterprises v. M/s. Elconment Limited and Another* 1991 I L.W. 617.

3. There is no dispute that the first defendant is only a proprietary concern. So, we have to see whether the defendants are entitled to invoke the provisions of the Act. The Act has been enacted with a view of securing the timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, remedial and other measures which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto. The company has been defined under Sec. 3(d) as follows :

"Company" means a company as defined in Sec. 3 of the Companies Act, 1956 (1 of 1956). Sec. 22 relied on by the counsel for the petitioners also refers only to the industrial company. So there cannot be any doubt that this Act will apply only to the companies as defined under Sec. 3 of the Companies Act, 1956. Merely based on the letter of authorities, the petitioners cannot rely on the provisions of the Act to suspend the proceedings pending before the civil Court. The petitioners should establish that the benefit given under the Act, will apply to them. In view of the fact that the first defendant is only a proprietary concern, there cannot be any doubt that the provisions of the Act will not extend any benefit to them to get any relief. In view of the above, there is no irregularity or illegality in the order of the lower Court.

4. In the result, the revision petition is dismissed. No costs. Consequently, C.M.P. No. 590 of 1997 is also dismissed.