

(2013) 12 KAR CK 0452

In the Karnataka High Court

Case No : Writ Petition No. 28382 of 2012 (GM-DRT)

M/s. Dasappa

APPELLANT

Vs

Edelweiss Asset Reconstruction Company Limited and Others

RESPONDENT

Date of Decision : 03-12-2013

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2013) 12 KAR CK 0452

Hon'ble Judges : D.H. Waghela, C.J.; S.N. Satyanarayana, J

Bench : Division Bench

Advocate : N. Suresha, for the Appellant; K. Shashikiran Shetty, Advocate for C/R-1, for the Respondent

Final Decision : Dismissed

Judgement

D.H. Waghela, C.J.—This petition appears to have been filed in July 2012 and listed before learned Single Judge with a group of other petitions on account of non-compliance of office objections, way back on 10.12.2012. Thereafter, an order was made by learned Single Judge on 1.3.2013 granting time of two more weeks for removal of office objections, failing which the petition was to stand dismissed automatically without reference to the court. Thereafter, when the petition is now listed for admission hearing, learned counsel has started narrating the facts in an absolutely unintelligible manner. Upon being called upon to read the brief facts of the case as narrated in the synopsis at the outset, he requested for time to amend the petition as obviously ununderstandable, incorrect or false averments were found to have been made. Then, learned counsel was requested to read the order said to be impugned in the petition i.e., the order at Annexure-O. Learned counsel admitted that the order was made on 13.8.2012 by the Debt Recovery Appellate Tribunal at Chennai, on account of non-compliance with the previous order dated 15.6.2012 to deposit the sum of Rs. 17,13,78,532/-. When learned counsel was requested to refer to the aforesaid order dated 15.6.2012, he expressed his inability to read or produce that order. As stated in the

impugned order, the appellate tribunal had ordered the petitioner to deposit the aforesaid amount on or before 16.7.2012 and even thereafter, the petitioner was granted three opportunities to deposit the said amount. It was stated before the Tribunal that the petitioner was praying for more time on the ground that settlement-talks were going on and there was every possibility of settlement.

2. In absence of any assistance worth the name from the side of the petitioner, we requested learned counsel Sri K. Shashikiran Shetty, appearing for the respondent, to explain as to how and why the recovery in accordance with law was remaining pending and the petitioner was tempted or facilitated to approach this court at his leisure. He submitted that he was appearing because of filing of a caveat in this court in the year 2012 and after the first caveat application filed in the year 2012, no fresh caveat has been filed. However, he also submitted that, possibly, the recovery was not being effected in accordance with law as the parties might have been negotiating for a settlement, but he would oppose granting of any interim relief.

3. The above record of facts and proceeding indicate that neither the petitioner nor the respondent is a serious litigant before this court and the litigation is serving the purpose of carrying on and proliferating litigations in one or the other court. It was stated at the Bar by learned counsel for the respondent that several other cases have been filed by the petitioner in other courts, but no injunction or stay was operating at present against recovery of the amount due to the respondent, according to his information.

4. In absence of any argument or assistance worth the name for the petitioner and admitted errors in the averments as also in absence of any legal arguments to challenge the impugned order and in view of the unexplained delay in pursuing the matter even after filing of the petition, we do not find the petition to be a bonafide attempt at obtaining any legitimate relief. Instead, the litigation appears to have been carried on with oblique motive, which disentitles the parties from obtaining any relief in exercise of the extraordinary jurisdiction of this court under Articles 226 or 227 of the Constitution. Therefore, this petition is dismissed with cost quantified at Rs. 10,000/-, which the petitioner shall pay to the Karnataka Legal Services Authority at Bangalore, within a period of 15 days.