

(2010) 05 P&H CK 0102
In the Punjab And Haryana At Chandigarh

Winsome Textile Industries Limited

APPELLANT

Vs

Mangla Cotex Limited
 Sudhir Kumar Jain Vs Winsome
Textile Industries Limited and Others

RESPONDENT

Date of Decision : 07-05-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
COMPANIES ACT, 1956 — Section 433, 434, 439, 442, 446
Limitation Act, 1963 — Section 5
Negotiable Instruments Act, 1881 (NI) — Section 138
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 19
Transfer of Property Act, 1882 — Section 69, 69A

Citation : (2011) 1 BC 167 : (2011) 163 CompCas 428 : (2010) 159 PLR 678

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—This order shall dispose of CA No. 364 of 2006 titled as an application under Order 9 Rule 13 read with Section 151 of the Code of Civil Procedure, 1908, and 466 of the Companies Act, 1956 with prayer to stay the operation of the impugned order dated 16.01.2004 and 30.03.2006; and CA No. 835 of 2009 titled as application u/s 151 of the Code of Civil Procedure, 1908 read with Section 5 of the Limitation Act for condonation of delay of 2 years 17 days in seeking review of the order dated 16.01.2004 and 71 days of delay in seeking review of the order dated 23.03.2006 till 02.06.2006 i.e., date of filing the CA No. 364 of 2006.

2. The brief facts leading to the filing of the aforesaid applications need to be stated first. One Winsome Textile Industries Limited, respondent No. 1 in CA No. 835 of 2009, filed a petition for winding up of M/s Mangla Cotex Limited, a company incorporated under the Companies Act, 1956, having its registered office at Ludhiana. In the aforesaid petition for winding up by a unsecured creditor, the respondent company was served and has put in appearance before

the Company Court on 13.03.2003 through Shri A.K. Rampal, Advocate on the basis of power of attorney signed by Mr. Sudhir Kumar Jain, present petitioner acting as Managing Director of the respondent company. No reply was filed on behalf of the said respondent though many opportunities were granted at the request of learned Counsel appearing on behalf of the company. The winding up petition was ordered to be admitted on 31.10.2003. The factum of admission was published in the "Indian Express" Chandigarh Edition;

"Dainik Tribune" a vernacular newspaper and Punjab Government Official Gazette. Since no objection was received, this Court passed an order of winding up on 16.01.2004. The Official Liquidator was directed to take over possession of the assets of the company. After the assets were taken over by the Official Liquidator, an application was filed by the Official Liquidator for permission to sell the assets of the company. Such application was allowed by this Court on 23.03.2006. In pursuance of the said permission, auction notice was published for conducting of auction of the properties of the company in liquidation on 12.05.2006. The auction has since been conducted though proceedings for confirmation of sale are stated to be pending.

3. On 2.5.2006, an application (CA 364 of 2006) was filed by Sudhir Kumar Jain, ex-Managing Director of the company, for stay of operation of orders dated 16.01.2004, and 30.3.2006 (sic 23.3.2006). In the said application, though titled as "application under Order 9 Rule 13 read with Section 151 of the Code of Civil Procedure, 1908 and 466 of the Companies Act", but there is no averment to the effect that there was any sufficient cause with the respondent company or its Managing Director for not causing appearance before this Court on any of the dates fixed in the petition for winding up preferred by unsecured creditor. Notice of the said application was issued to the Official Liquidator and to the petitioner creditor for 18.05.2006. It was on 18.05.2006, learned Counsel appearing for unsecured creditor stated that the creditor has settled its claim and has no objection if the order of winding up is recalled. It was also stated that the petitioner will withdraw the complaints filed by it u/s 138 of the Negotiable Instruments Act and CP No. 416 of 2002. Mr. Malik, learned Counsel appearing for the present petitioner, stated that the management is ready and willing to settle the claim of the Official Liquidator towards litigation expenses incurred by him after the order of winding up was passed. On the aforesaid date, notice was also issued to the secured creditors - M/s Canara Bank, Ludhiana and IDBI Chandigarh for 25.5.2006.

4. On 25.5.2006, Mr. Suri, learned Counsel representing the unsecured creditor undertook to withdraw CP Nos. 416 of 2002 as well as complaints filed against the Directors of the company u/s 138 of the Negotiable Instruments Act. Mr. Malik, learned Counsel representing the former management, also handed over a sum of Rs. 8 lakhs by demand drafts to the Official Liquidator towards the expenses incurred by it. On the request of learned Counsel representing the secured creditors, the matter was adjourned to 20.07.2006. During the pendency

of the said application, an application bearing number CP No. 650 of 2006 was filed by the Canara Bank for transposing it as petitioner.

5. It was on 16.11.2006, after hearing learned Counsel for the parties, that CP No. 650 of 2006 filed by the Canara Bank for transposing as petitioner was allowed. The present CA No. 364 of 2006 was adjourned for 30.11.2006. Even when CA No. 364 of 2006 was pending, another application CA No. 387 of 2006 titled Ashwani Kumar v. Winsome Textiles Industries Limited with affidavit of Manish Kumar Jain s/o Padam Kumar Jain dated 10.05.2006 was filed for setting aside of the order dated 23.03.2006 whereby the Official Liquidator was permitted to sell the property of the company in liquidation. It was averred in Para No. 9 of the application that the company i.e. M/s Mangla Cotex Limited, has been promoted by Shri Manish Kumar Jain, Shri Rajesh Kumar Jain, Shri Ashwani Kumar Jain and Shri Sudhir Kumar Jain, all sons of Shri Padam Kumar Jain in joint sector with Punjab State Industrial Development Corporation. CA Nos. 682 of 2007 is that the order dated 16.01.2004 may be recalled for winding up of M/s Mangla Cotex Limited and allow Winsome Yarn to withdraw the company petition. The said application is accompanied by affidavit of Rajesh Kumar Jain s/o Shri Padam Kumar Jain. The aforesaid application is also preferred through Shri B.S. Malik, Advocate, who has filed CA No. 364 of 2006 as well. CA No. 815 of 2007 has again been preferred for recalling of the order dated 16.01.2004. The said application is supported by an affidavit of Ashwani Kumar, shareholder and former Director of Mangla Cotex Limited in liquidation. All the three applications came to be decided by the Hon"ble Company Judge on 30.09.2008. In the aforesaid order, the Hon"ble Judge considered the filing of application by the Canara Bank for recovery of its dues before the Debts Recovery Tribunal (for short "DRT") under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

6. It may be noticed that Mr. Ashwani Kumar challenged the order passed by the Hon"ble Company Judge in Company Appeal No. 20 of 2008 accompanied with an application for stay of the order passed by the Hon"ble Company Judge. The said company appeal was admitted on 4.3.2009 but stay was declined. Against the said order, Mr. Ashwani Kumar filed SLP which was dismissed on 6.4.2009. Admittedly, thereafter, Company Appeal No. 20 of 2008 has been withdrawn by Mr. Ashwani Kumar on 04.12.2009. Thus the order dated 30th September, 2008 has attained finality.

7. It was on 1.12.2009, the present petitioner, Mr. Sudhir Kumar Jain filed CA No. 834 of 2009 for receiving on record a copy of Review Application No. CA 364 of 2006. An order was passed on 5.2.2010, that since the record of CA No. 364 of 2006 is available, therefore, the application for placing on record a copy of the application (CA No. 364 of 2006) does not survive. However, notice of CA No. 835 of 2009 to seek condonation of delay and CA No. 364 of 2006 was ordered to be issued to the respondents.

8. Subsequently, the secured creditors as well as auction purchaser have filed

separate replies which have been taken on record. The petitioner has filed rejoinder. The same has also been taken on record.

9. Learned Counsel for the petitioner has vehemently argued that the petitioner, former Managing Director of the company in liquidation, was suffering from serious health and psychiatric problems which prevented the petitioner to prosecute the proceedings initiated by the unsecured creditor for winding up of the company. The medical record to support such contention has been placed on record. Therefore, it is contended that there is sufficient cause for not contesting the petition for winding up by the former management which led to the passing of winding up order on 16.01.2004 and all subsequent orders including the order permitting the Official Liquidator to sell the property of the company. Thus the order dated 16.01.2004 and the order permitting the Official Liquidator needs to be recalled.

10. I do not find any merit in the aforesaid argument. The company was served and had put in appearance on 13.03.2003. The appearance before this Court by an Advocate was on the basis of a power of attorney signed by the present petitioner for and on behalf of the company. Learned Counsel for the company has sought time to file counter affidavit to contest the claim of the unsecured creditor but none was filed. It was on 31.10.2003, the petition was ordered to be admitted and the factum of admission was given wide publicity as well. It was on 16.01.2004, the order of winding up was passed.

11. Earlier, the brothers of the present petitioner have moved applications for setting aside the order of winding up and the order permitting the Official Liquidator to sell the property as promoter and shareholders of the company. The said applications were dismissed. The order passed has attained finality. Though an application (CA No. 364 of 2006) filed on May 2nd, 2006 on behalf of the petitioner was pending, but there is no averment in the aforesaid application pointing out any sufficient cause for not causing appearance before this Court in the petition for winding up on behalf of unsecured creditor pending before this Court. There is no averment whatsoever which may lead to an inference that the petitioner has sought setting aside of winding up order dated 16.01.2004. There is no reference to the mental and physical health of the petitioner in the application. The prayer made is for stay of operation of order dated 16.01.2004 and the order permitting the Official Liquidator to sell the property. The said application cannot be treated to be an application for setting aside the order of winding up dated 16.01.2004 or of the order permitting the Official Liquidator to sell the property on 23.03.2006.

12. The only averment in Para No. 8 of the aforesaid application is that the jurisdiction of the Company Court stands ousted by the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Company Court has no jurisdiction to entertain the company petition and the orders dated 16.01.2004 and 23.03.2006 are without jurisdiction and nullity. It was pointed out that the secured creditors have also filed original applications which are pending before

the DRT Chandigarh. In an application (CA No. 835 of 2009) filed on 01.12.2009, to seek condonation of delay in seeking review of the order dated 16.01.2004 i.e., CA No. 364 of 2006, the following prayer was made:

(a) condone 2 years 17 days delay in seeking review of the order dated 16th January, 2004 and 71 days of delay in seeking review of the order dated 23rd March, 2006;

(b) pass such further and other orders as the nature and circumstances of the case may warrant.

13. From the aforesaid prayer, it is apparent that it is an application to seek condonation of delay in filing of application i.e. CA No. 364 of 2006 up to 2.5.2006. In view of the said fact, CA No. 835 of 2009 cannot be said to be an application for setting aside of winding up order dated 16.01.2004 and 23.03.2006, as is sought to be argued.

14. For the sake of argument, if it is assumed that CA No. 835 of 2009 is an application for setting aside of winding up order dated 16.1.2004 and order dated 23.03.2006 permitting sale of the assets of the company, even then the said application is not meritorious and does not warrant any indulgence from this Court at this stage. The said application filed on 1.12.2009 lacks bona fide. Earlier, CA No. 387 of 2006, CA No. 682 of 2007 and CA No. 815 of 2007 were filed by the brothers of the present petitioner on 10.05.2006, 03.10.2007 and 15.11.2007 respectively to seek setting aside of the order dated 23.03.2006 and order dated 16.01.2004. The said applications were dismissed on 30.09.2008. The appeal against the said order stands withdrawn on 4.12.2009. It appears that the four brothers have filed different applications to achieve the same object i.e., to seek setting aside of the order of winding up and permission to the Official Liquidator to sell the assets of the company. The applications filed by Ashwani Kumar, Manish Kumar and Rajesh Kumar have been dismissed by the Hon"ble Company Judge on 30.09.2008. One of the applications i.e., CP No. 387 of 2006 was filed by the same counsel who has filed the present CP No. 364 of 2006 as well. Therefore, it appears that the petitioner has pressed the present application after the application filed by his three brothers have been dismissed. The present application has been filed on the pretext of lack of proper mental and physical health. The application now filed not only lack bona fide but an attempt to circumvent the order passed by the Court on 30.09.2008. The proceedings for winding up were initiated in the year 2002 whereas the excuse of lack of proper mental and physical health has been raised in the year 2009 after similar applications filed by the brothers of the petitioner stand declined. CA No. 835 of 2009 is neither an application for setting aside of ex parte proceedings nor I find that such application discloses sufficient and good reasons for non appearance of the petitioner or any of the promoters and shareholders in not appearing before this Court at the time of winding up.

15. Learned Counsel for the petitioner has vehemently argued that the secured

creditors are estopped in law in prosecuting the petition for winding up before this Court and also continuing with the original application u/s 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993(for short "DRT Act"). It is contended that since the Companies Act, 1956 and DRT Act both confers certain rights to the secured creditors, therefore, the latter Act will prevail over the former, therefore, the remedy under the Companies Act is not available to the secured creditors. Reference has been made to judgments of the Supreme Court in Allahabad Bank v. Canara Bank and Anr. AIR 2000 SC 1535; M/s Rishabh Agro Industries Ltd v. P.N.B. Capital Services Limited AIR 2000 SC 1583 ; NGEF Ltd. Vs. Chandra Developers Pvt. Ltd. and Another, ; Tata Motors Limited v. Pharmaceutical Products of India Limited and Anr. AIR 2008 SC 2805 and Deva Ram and Another Vs. Ishwar Chand and Another, to contend that even if the Companies Act is treated to be a general Act, the latter and Special Act i.e. DRT Act, will prevail and the remedy of winding up is not available to the secured creditors.

16. In Allahabad Bank's case (supra), it has been held that adjudication of liability and the recovery of the amount by execution of the certificate are respectively within the exclusive jurisdiction of the Tribunal and the Recovery Officer and no other Court or authority much less the Civil Court or the Company Court can go into the said questions relating to the liability and the recovery except as provided in the Act. It has also been held that there can be no interference by the Company Court u/s 442 read with Section 537 or u/s 446 of the Companies Act, 1956.

17. Later in Transcore Vs. Union of India (UOI) and Another, , Hon"ble Supreme Court examined the provisions of DRT Act as well as Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "NPA Act").On analysing the provisions of DRT Act, it was held to the following effect:

...we find that the said Act is a complete Code by itself as far as recovery of debt is concerned. It provides for various modes of recovery. It incorporates even the provisions of the Second and Third Schedules to the Income Tax Act, 1961. Therefore, the debt due under the recovery certificate can be recovered in various ways. The remedies mentioned therein are complementary to each other. The DRT Act provides for adjudication. It provides for adjudication of disputes as far as the debt due is concerned. It covers secured as well as unsecured debts. However, it does not rule out applicability of the provisions of the TP Act, in particular Sections 69 and 69A of that Act. Further in cases where the debt is secured by pledge of shares or immovable properties, with the passage of time and delay in the DRT proceedings, the value of the pledged assets or mortgaged properties invariably falls. On account of inflation, value of the assets in the hands of the bank/FI invariably depletes which, in turn, leads to asset liability mis-match. These contingencies are not taken care of by the DRT Act and, therefore, Parliament had to enact the NPA Act, 2002.

18. Later, while analyzing the provisions of NPA Act, it was held that if a borrower, who is under a liability to a secured creditor, makes any default in repayment of secured debt and his account in respect of such debt is classified as non performing asset then the secured creditor may require the borrower by notice in writing to discharge his liabilities. The said Act comes into force only when the borrower is under a liability and his account in the books of the bank or financial institution is classified as substandard, doubtful or a loss. It was held to the following effect:

...On reading Section 13(2) it is clear that the said sub-section proceeds on the basis that the borrower is already under a liability and further that, his account in the books of the bank or FI is classified as substandard, doubtful or loss. The NPA Act comes into force only when both these conditions are satisfied. Section 13(2) proceeds on the basis that the debt has become due. It proceeds on the basis that the account of the borrower in the books of bank/FI, which is an asset of the bank/FI, has become non-performing. Therefore, there is no scope of any dispute regarding the liability. There is a difference between accrual of liability, determination of liability and liquidation of liability. Section 13(2) deals with liquidation of liability. Section 13 deals with enforcement of security interest, therefore, the remedies of enforcement of security interest under the NPA Act and the DRT Act are complementary to each other. There is no inherent or implied inconsistency between these two remedies under the two different Acts. Therefore, the doctrine of election has no application in this case.

19. It has been further held that it is wrong to say that where two Acts provide parallel remedies, doctrine of election is not applicable. It was held as under:

In the light of the above discussion, we now examine the doctrine of election. There are three elements of election, namely, existence of two or more remedies; inconsistencies between such remedies and a choice of one of them. If any one of the three elements is not there, the doctrine will not apply. According to American Jurisprudence, 2d, Vol. 25, page 652, if in truth there is only one remedy, then the doctrine of election does not apply. In the present case, as stated above, the NPA Act is an additional remedy to the DRT Act. Together they constitute one remedy and, therefore, the doctrine of election does not apply. Even according to Snell's Equity (Thirty-first Edition, page 119), the doctrine of election of remedies is applicable only when there are two or more co-existent remedies available to the litigants at the time of election which are repugnant and inconsistent. In any event, there is no repugnancy nor inconsistency between the two remedies, therefore, the doctrine of election has no application.

20. Still further, it has been held that there is no bar to the application of both the Acts simultaneously.

...Basically, the NPA Act is enacted to enforce the interest in the financial assets which belongs to the bank/FI by virtue of the contract between the parties or by operation of common law principles or by law. The very object of Section 13 of

NPA Act is recovery by non-adjudicatory process. A secured asset under NPA Act is an asset in which interest is created by the borrower in favour of the bank/FI and on that basis alone the NPA Act seeks to enforce the security interest by non-adjudicatory process. Essentially, the NPA Act deals with the rights of the secured creditor. The NPA Act proceeds on the basis that the debtor has failed not only to repay the debt, but he has also failed to maintain the level of margin and to maintain value of the security at a level is the other obligation of the debtor. It is this other obligation which invites applicability of NPA Act....

21. The scope of winding up process has been examined in number of judgments. Hon''ble Supreme Court in Haryana Telecom Ltd. Vs. Sterlite Industries (India) Ltd., observed as under:

5. The claim in a petition for winding up is not for money. The petition filed under the Companies Act would be to the effect, in a matter like this, that the company has become commercially insolvent and, therefore, should be wound up....

22. A Division Bench of this Court in a judgment reported as Goetze India Limited v. Pure Drinks (New Delhi) Limited 1993 (2) PLR 745, has, inter alia, held that proceedings of winding up cannot be treated as alternative remedy of a suit for recovery nor as an execution proceedings. It may be a legitimate means for seeking enforcement of payment of debt but it cannot be used as a lever to exercise pressure on the company to pay off the debts to a creditor. The Court is concerned not only with the interest of the petitioner or the creditors but it has to keep in view the interest of the company''s shareholders, contributors etc also. It has been further held that the petitioner creditor has to wait for his turn as the other similarly situated person to recover his amount due and stands parri pasu with other creditors similarly situated. He has to establish his debts before the official liquidator after the passing of the winding up order as any creditor would have been able to do so. It has been held as under:

21. From the skeletal scheme of the Act, summarised and referred to in brevity above and what has been expressly provided, the brief design from short exordium appears to be that winding up of a Co. is provided by specific and precise legislation. It is a case of insolvency of a corporate existence and I can safely venture to state that it can be equated with the bankruptcy of a person particularly when the Co. is sought to be wound up through agency of the Court for its inability to pay its debts or where it is found to be just and equitable that the Co. should be wound up. At this stage, it may be noticed that Section 434 defines the deeming provisions when the Co. would be deemed to be unable to pay its debts. I may further venture to state that the scheme and provisions of the Act obviously ensure that winding up of the Co. particularly the creditors, shareholders and contributories etc. In spite of the fact that winding up might have been sought by a single creditor or a person enumerated in Section 439 of the Act, it would be reasonable to infer that a petition for winding up would be deemed to be representative action and is in public interest. It is a collective procedure. It is an accepted mechanism or methodology provided by the Act by

which assets of the Company are concerned, liabilities met, debts paid and if afterwards, something is left the same is distributed amongst the members.

22. In my considered view the predominant purpose of ordering the winding up of a company has deep roots in the public policy and is a step not to permit the company to run its day to day business when it is unable to meet its commitments or has become sick or has meddled in its affairs to such an extent that it would not be in the interest of the public or the persons interested in it to permit the company to continue functioning.

23. Another Division Bench of this Court in *Shri Trilok Chand Jain and Ors. v. Swastika Strips Private Limited and Anr.* 1995 (1) PLR 70 , held as under:

The petitioner in a petition filed u/s 433 of the Act seeking winding up of the Company on the grounds mentioned in clause (e) is under a legal obligation to make out sufficient grounds in his favour before invoking the jurisdiction of the Court. The coercive method of winding up the company cannot be permitted to be utilised merely as a pressure tactics on the Company or as a means for the recovery of the debts due from it. Only in cases where the claim of creditors is undisputed and the Company had not replied to the notice served upon it the winding up petition is maintainable and not otherwise. Resort to the remedy of winding up should not be mala fide. The winding up petition cannot be termed to be proper mode of recourse to a bona fide disputed debt.

24. A Division Bench of Bombay High Court in *Viral Filaments Limited v. Indusind Bank Limited* 113 (2003) Company Cases 85 considered the provisions of DRT Act and held to the following effect:

...On first principles, we are unable to agree with learned Counsel that a petition presented u/s 433(e) of the Companies Act, 1956 for winding up of a company is or equivalent to an application seeking recovery of a debt due to the petitioning creditor. In the first place, Section 433 of the Companies Act, 1956 is not intended to supplant the jurisdiction of a civil court to adjudicate a money suit. Section 433(e) vests in the company court the jurisdiction to wind up a company, inter alia, under clause (e), if the company is unable to pay its debts. Section 434 creates a statutory fiction that if the creditor has issued a prescribed notice to the company to pay up the debt and the company fails to do so or falls to secure the said debt within the prescribed time, the company shall be deemed to be unable to pay its debts. Once such a contingency has arisen, and the statutory fiction has come into play, it is perfectly open to the company court to entertain the petition u/s 433(e) of the Companies Act, 1956.

25. The argument that what could be done by the Company Court can equally be done by the DRT was found to be erroneous. It was held to the following effect:

...There is no provision in the RDB Act empowering the Tribunal to wind up a company which owes the debt to the applicant financial institution. The jurisdiction of the Tribunal under the RDB Act is only to adjudicate the liability of

the respondent before it, ascertain the "debt" due to the bank/financial institution and issue a certificate for recovery thereof. Once such a certificate of recovery is issued to the Recovery Officer, the Recovery Officer is empowered to execute the same in the manner prescribed under the RDB Act. We find that the jurisdiction to wind up the company is wholly unavailable to the DRT. Hence, what could be done by the Company Court u/s 433(e) could obviously not be done by DRT.

26. Recently a Single Judge of this Court in case reported as M/s Ratna Commercial Enterprises Pvt. Ltd v. Vasu Tech. Ltd. 2009 (3) PLR 460 has held that winding up is not a mode of recovery of debt or amount payable by the company.

27. Therefore, the petition for winding up is not a petition for recovery of money. The petitioner creditor invokes jurisdiction of the Company Court not for his benefit but for all the creditors, shareholders and contributors. On the other hand, DRT Act is a statute providing adjudicatory process and proceedings for the execution of the amount due. Thus, two statutes occupy different field enacted to achieve different objectives. Thus, the secured creditor can not be said to be prohibited to continue with the winding up process. Therefore, the argument raised by the petitioner that secured creditor cannot invoke more than one remedy i.e. DRT Act and Companies Act, is without any merit.

28. Though reference has been made to a large number of judgments but the issue raised in the aforesaid judgments primarily relate to the proceedings under Sick Industrial Companies (Special Provisions) Act, 1956 and the Companies Act. The issues decided therein are not the issues raised in the present case. The judgment in Deva Ram and Another Vs. Ishwar Chand and Another, deals with the bar of a subsequent suit under Order Rule 2 of the Code of Civil Procedure, 1908. The said bar arises if the subsequent suit is based upon same cause of action. In the aforesaid case, the Court has found that the earlier suit for recovery of sale price is based upon a different cause of action and the suit for possession even in the said judgment has no applicability to the facts of the present case. Thus, I am of the opinion that the argument that secured creditor cannot be permitted to continue with the winding up proceedings is not tenable in law nor such an argument can be permitted to be raised on behalf of the petitioner.

29. In view of the discussion above, the applications filed by the petitioner are without any merit. The same are dismissed.