

L.P. SHASHI KUMAR
v.
INDUSTRIAL DEV. BANK OF INDIA LTD.

FEBRUARY 8, 2007

[DR. AR. LAKSHMANAN AND ALTAMAS KABIR, JJ.]

Banks/Banking:

Release of securities—Held, in view of payment made by appellant towards full and final settlement of dues of respondent-Bank, said bank would release the securities—Parties would withdraw their respective cases pending before the High Court and the State Consumer Disputes Redressal Commission.

Respondent no. 1-bank approached the High Court against the order of the A.P. State Consumer Disputes Redressal Commission directing release of security to the appellant. The High Court stayed operation of the order of the Commission. In the special leave petition filed by the appellant, the Supreme Court while issuing notice granted liberty to the principal debtor or the guarantor to deposit the money with the bank so that the Court could consider the prayer for return of share certificates and title documents. Pursuant to the said order the guarantor deposited the money with respondent no. 1.

Disposing of the appeal, the Court

HELD: In view of the payment made by the appellant towards full and final settlement of the dues of IDBI, the said bank is directed to release the securities to respondent no.3 forthwith. Nothing further survives for the bank to pursue the writ petition filed by it before the High Court. Therefore, the bank is directed to withdraw the said writ petition. Likewise, the appellant is also directed to withdraw the case filed by him before the A.P. State Consumer Disputes Redressal Commission immediately. [Para 6] [383-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 644 of 2007.

A From the Final Judgment/Order dated 27.4.2006 of the High Court of Andhra Pradesh at Hyderabad in W.P. No. 7951/2006 and W.P.M.P. No. 10172/2006 in W.P. No. 7951/2006.

G. Bikshapathy, T. Anamika and A. Chandra Mohan for the Appellant.

B Sanjay Bhatt and Amit Kumar for the Respondents.

The Judgment of the Court was delivered by

DR. AR. LAKSHMANAN, J. I. Leave granted.

C 2. Heard Mr .G. Bikshapathy, learned senior counsel appearing on behalf of the appellant and Mr.Sanjay Bhatt, learned counsel appearing on behalf of the contesting respondent No.1 (Industrial Dev. Bank of India Ltd.).

D 3. This appeal was filed against the order passed by the High Court of Andhra Pradesh dt.27.04.2006 in W.P.No.7951 of 2006 and W.P.M.P.No.10172 of 2006. The High Court was approached by the first respondent herein against the direction given by the A.P.State Consumer Disputes Redressal Commission directing release of security to the appellant herein. The High Court stayed the operation of the order dt.06.04.2006 passed by the A.P.State Consumer Disputes Redressal Commission, Hyderabad in CDIA No.33/2006 (CD No.1/2006). When the matter came up for admission before this Court on E 19.06.2006, this Court passed the following Order :-

“Issue notice returnable within six weeks.

F “In the meanwhile, the operation of the impugned order passed by the High Court in WPMP No. 10172/2006 in WP No.7951/2006 dt.27.04.2006 shall remain stayed.

G “In the meantime, either the principal debtor or the guarantor are at liberty to deposit the money with the bank so that this Court may consider the prayer for return of share certificates and title documents to the petitioner-guarantor. This direction is issued since the GTL is ready to pay the outstanding principal amount of Rs.4.80 crores along with 9% interest per annum from December, 2003.”

H 4. By Order dt.31.10.2006, the main Special Leave Petition itself was directed to be listed for final hearing. Today, when the matter is taken up for

hearing, learned senior counsel appearing on behalf of the appellant placed before us a communication dt.01.02.2007 addressed to the Deputy General Manager, Industrial Development Bank of India Limited, Huderabad. The said communication reads thus :-

“Date: 01-02-2007

To

The Deputy General Manager,
Industrial Development Bank of India Limited,
Main Branch,
Hyderabad - 500 001

Dear Sir,

Sub:- Full and Final settlement of Term Loan of Rs.1000 lacs.

Ref:-1) Our Term Loan account GOLT0101100, GOLT0101101 and GOLT0101102

(2) Your letter bearing no.IDBI(H)No.5278/CFD(GTL)

With reference to the above cited-subject, please find enclosed Cheque bearing no.672421 for Rs.54,22,237.00, drawn on M/s UCO Bank, Abid Circle Branch, towards full and final settlement of Term Loan referred in (1) above.

We request yourselves to acknowledge the receipt of the above said payment, issue letter towards full and final settlement of the said Term loan and release all charges created on the assets of our company, personal guarantees executed by the management of our company in favour of IDBI, release pledge of 15,00,000 equity shares of Goldstone Technologies Ltd., held by Goldstone Exports Ltd. and any other securities/sureties executed in this regard.

Thanking you

Yours truly,
For Goldstone Technologies Ltd.
Sd/-

D.P. Sreenivas
Executive Director”

A 5. The learned senior counsel for the appellant has also placed before us a communication by way of reply to the communication dt.01.02.2007 sent to the Managing Director, Goldstone Technologies Ltd.. The said letter reads thus :-

B “IDBI(H) No. /CFD(GTL) February 3, 2007

The Managing Director,
Goldstone Technologies Ltd.,
Amarchand Sharma Complex,
S.D.Road,
C Secunderabad - 500 003.

Dear Sir,

Rupee term loan of Rs.1000 lakh-Settlement of dues

D Please refer to your letter dated February 1, 2007 forwarding a cheque for Rs.54,22,237/- (Rupees fifty four lakh twenty two thousand two hundred thirty seven only) towards full and final settlement of dues of IDBI. In this connection, we advise that on receipt of the aforesaid payment, there are no dues from the company to IDBI and the term loan account of Rs.1000 lakh stands fully repaid. We, therefore, advise you to arrange to withdraw the cases pending before the A.P.State Consumer Disputes Redressal Commission, Hyderabad and Hon’ble Supreme Court of India to enable us to release the securities etc. at the earliest.

Yours faithfully,

F Sd/-
(V.V.Rao)
Dy.General Manager”

G 6. It is thus seen that in compliance of the Order of this Court dt.19.06.2006, the guarantor deposited the money with the first respondent. Since the sum of Rs.54,22,237/- (Rupees fifty four lakh twenty two thousand two hundred thirty seven only) has been paid by the appellant to the first respondent bank towards full and final settlement of the dues of IDBI, the IDBI has requested the appellant herein to withdraw the cases pending before the A.P.State Consumer Disputes Redressal Commission, Hyderabad and in this Court to

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enable them to release the securities at the earliest. In view of the payment of Rs.54,22,237/- made by the appellant towards full and final settlement of the dues of IDBI, the said bank is directed to release the securities to respondent No.3 (Goldstone Technologies Ltd.) forthwith. In view of the final payment now received by IDBI, there is nothing further survives for the bank to pursue the Writ Petition No.7951/2006 filed by them before the High Court. Therefore, the IDBI is directed to withdraw the said Writ Petition from the High Court. Likewise, the appellant is also directed to withdraw the case filed by him before the A.P.State Consumer Disputes Redressal Commission, Hyderabad immediately. The zerox copies of the letter dt.01.02.2007 and 03.02.2007 are placed on record and will form part of this Order.

7. We make it clear that the deposit of sum of Rs.54,22,237/- now made by the appellant is in addition to the sum of Rs.89,96,636/- deposited by the guarantor pursuant to our interim order dt.19.06.2006 in full and final settlement of the bank dues.

8. The appeal stands disposed of accordingly. No costs.

R.P.

Appeal disposed of.