

M/S Art Housing Finance (India) Limited vs Directorate Of Enforcement And Ors on 13 May, 2020

Author: V. Kameswar Rao

Bench: V. Kameswar Rao

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3083/2020 & CM. No. 10720/2020 & CM. Nos. 10771 to 10776/2020

M/S ART HOUSING FINANCE (INDIA) LIMITED Petitioner
Through: Mr. Siddharth Luthra, Sr. Adv. with
Mr. Subhash Jhadav, Ms. Neeha Nagpal,
Ms. Stuti Gujral and Mr. Vishvendra Tomar,
Advs.

Versus

DIRECTORATE OF ENFORCEMENT AND ORS. Respondents
Through: Mr. Amit Mahajan, CGSC.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
ORDER

% 13.05.2020 This matter is being heard through video-conferencing. CM. Nos. 10772/2020 and 10775/2020 This is an application filed by the applicant / petitioner seeking exemption from filing court fees / notarized affidavits. For the reasons stated in the application for exemption from filing notarized affidavits, the same is allowed.

Subject to the applicant / petitioner filing the necessary Court fee within 72 hrs from the date of resumption of regular functioning of the Court, as mandated in terms of Office Order dated April 04, 2020 issued by this Court, exemption from filing the requisite court fees is granted. Application is disposed of.

CM. Nos. 10773/2020 and 10776/2020 (for exemptions) Exemptions allowed subject to all just exceptions. Applications stand disposed of.

This is an application filed by the applicant / petitioner seeking permission to place subsequent facts; additional grounds; additional documents and additional prayer on record. For the reasons stated in the application, the same is allowed. Amended writ petition be filed on or before May 19, 2020.

Application stands disposed of.

W.P.(C) 3083/2020 Pursuant to the last order passed by this court, Mr. Amit Mahajan, learned CGSC has taken instructions. According to him, with regard to the FDRs mentioned at serial nos. 4 to 16 of the table depicted in Para 2 of the petition, which did not form part of the attachment order, instructions were issued by the respondents to the Banks not to encash / operate the same. He also states the respondents are in the process of issuing a fresh attachment order with respect to the said FDRs. He further states in so far as the accounts at serial nos. 2 and 3 are concerned, as there was no money in the said accounts, the same were not attached. Notice, Mr. Amit Mahajan, learned CGSC accepts notice for the respondents. The respondents to file a reply on or before May 19, 2020 with an advance copy to the counsel for the petitioner. The reply shall also be on the additional facts, grounds and prayer made and allowed in CM. No. 10774/2020.

CM. No. 10720/2020 and 10771/2020 Mr. Siddharth Luthra, learned Sr. Counsel appearing for the petitioner presses these interim applications filed with the following prayers:

"In the circumstances, it is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to:

A. Pass an ad-interim ex-parte order staying the operation of the action taken by the Respondent Agency of freezing the Petitioner Company's bank accounts/FDs held with HDFC Bank, Pocket 2, OFC, Sector C, Vasant Kunj, New Delhi Branch as well as Development Co-operative Bank, A-Set Building, Desh Bandhu Road, Karol Bagh, New Delhi - 110005 as detailed in Paragraph 2 of the Petition; and B. Pass any other order this Hon'ble Court may deem fit and necessary, in the interest of justice and good faith."

"In light of the aforementioned facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:

A. Pass an order clarifying/directing that the Petitioner Company/Applicant can open and operate new bank accounts for the collection of current and future receivables and to meet existing and future liabilities and operational expenses; and B. Pass any other order this Hon'ble Court may deem fit and necessary, in the interest of justice."

In so far as CM. No. 10720/2020 is concerned, Mr. Luthra states, even though the prayer made in this application is for staying the operation of the order freezing the petitioner company's bank accounts/FDRs held with HDFC Bank, Pocket 2, OFC, Sector C, Vasant Kunj, New Delhi Branch as well as Development Co-operative Bank, A-Set Building, Desh Bandhu Road, Karol Bagh, New Delhi - 110005, he would be satisfied if for present the petitioner is permitted to pay the salaries to the employees for the month of April, 2020 by encashing FDRs of equivalent amounts. He states, the petitioner is ready to furnish the list of employees to whom the salaries have to be paid to the respondents within 24 hours to enable the respondents verify the authenticity of the names. According to him, if the respondents have any doubt with regard to a name, they can communicate

the same to the petitioner so that the amount is not released to that person. That apart he states, salary shall be paid after deducting the TDS and permission be also granted by this court to deposit the TDS and connected statutory dues (connected with the salary) with the authorities concerned.

That apart in so far as the prayers in CM. No. 10771/2020 are concerned, it is the submission of Mr. Luthra that the petitioner has to receive monies from the lenders / customers, which be allowed to be deposited in separate bank accounts to be opened by the petitioner in the aforesaid Banks. He states, the petitioner shall not withdraw any amount so deposited till the next date of hearing.

Having noted the submissions made by Mr. Luthra, this court is of the view the submissions are reasonable and the request made need to be allowed. Accordingly, the petitioner is permitted to furnish to the respondents within 24 Hrs., list of the employees to whom the salaries have to be paid for the month of April, 2020. Respondents shall verify the list and convey their approval and objection, if any, with regard to any name, within 24 Hrs. of the receipt of the list from the petitioner. They shall send a communication to the Banks forthwith to enable the petitioner pay salary to its employees for the month of April, 2020, by operating / encashing the FDRs of the equivalent amount, (equivalent to the salaries to be paid to the employees). The petitioner is permitted to deposit the TDS and connected statutory dues (if any) with the authorities. That apart, petitioner is also permitted to open one account each in HDFC Bank and DCB respectively. The monies received by the petitioner from the lenders / customers shall be deposited in these accounts. The petitioner shall not withdraw any amount from the said accounts till the next date of hearing.

List on May 20, 2020.

Counsel for the parties shall also be at liberty to convey this order to the concerned banks.

V. KAMESWAR RAO, J MAY 13, 2020/jg