

SUPREME COURT OF INDIA

Cross Country Hotels Ltd.

Vs.

Tourism Finance Corpn.of India Ltd.

C.A.No.49 of 2009

(S.B. Sinha and V.S. Sirpurkar JJ.)

05.01.2009

JUDGEMENT

1. Leave granted.

2. Having heard Mr. Altaf Ahmed, learned senior counsel appearing on behalf of the appellant and Mr. Dushyant Dave, learned senior counsel appearing on behalf of the respondents, with the consent of the parties, this appeal is disposed of with the following directions:

“1. Respondents herein need not supply the appraisal reports for various projects of the appellant company.

2. The respondents herein shall produce for inspection of the learned counsel for the appellant, within four weeks, all other documents wherefor an application for production and discovery had been filed before the learned Debt Recovery Tribunal, New Delhi, being I.A. No. 186/2003.

3. It is directed that all such documents which are available with the respondents-Corporation shall be supplied to the appellant within two weeks thereafter.”

3. Keeping in view the fact that the matter is pending for a long time, the Debt Recovery Tribunal is requested to dispose of the matter as expeditiously as possible.

4. With the aforementioned direction, the impugned judgment is set aside and the appeal is disposed of.

5. CIVIL APPEAL NO. 51/2009 [@ SLP(C) No.26738/2008] Leave granted.

6. This appeal is directed against the judgment and order dated 24th October, 2008 passed by a learned Single Judge of the High Court of Judicature of Rajasthan at Jaipur, in S.B. Civil Writ Petition No. 9609/2008, whereby and whereunder it was directed:

“Meanwhile, operation of the office order dated 14.8.2008 (Anx.4) and 19.8.2008 (Anx.5) shall remain stayed. Further, in case the petitioner submits the notarised undertaking within a period of fifteen days from today, for payment of Rs. 10 lacs (Rupees ten lacs) per month for a period of one year, then the possession of the seized property shall be restored to the petitioner on depositing first installment of Rs. 10 lacs.

The remaining installments shall be paid by the 15th of each month, failing which the interim order shall stand vacated automatically without reference to this Court.

List in the month of December, 2008 for further orders.”

7. In view of the order proposed to be passed by us we need not enter into the merit of the matter as the order as quoted above was passed ex-parte.

8. Mr. Dave, learned senior counsel appearing on behalf of the appellant submits that the possession of the Hotel in question had already been taken over on 22.8.2008.

9. Mr. Altaf Ahmed, learned senior counsel on the other hand, submits that the orders impugned before the High Court, being office orders dated 14.8.2008 and dated 19.8.2008, the said orders are ex-facie illegal and without jurisdiction and, furthermore, as the possession had been obtained by the writ petitioner purportedly to be in terms of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and in that view of the matter the High Court cannot be said to have committed any error in passing the impugned order.

10. Be that as it may, by reason of the impugned judgment, the High Court has passed the ex-parte order in mandatory form.

11. By an order dated 25.11.2008, a Division Bench of this Court while issuing notice, directed status quo as on that date, to be maintained by all concerned. In that view of the matter, we are of the opinion that interest of justice would be subserved if the impugned judgment is set aside and the High Court be requested to hear out the matter afresh, after giving an opportunity of hearing to both the parties. It is directed accordingly.

12. While making the interim order dated 25.11.2008 passed by this Court absolute, we would request the High Court to hear out the parties and pass appropriate order as expeditiously as possible, preferably within a period of three weeks from the date of communication of this order.

13. With the aforementioned observation and direction, this appeal is disposed of.