

ITEM NO.28

COURT NO.6

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 9077/2019

(Arising out of impugned final judgment and order dated 02-04-2019 in CRLP No. 8869/2018 passed by the High Court Of Judicature At Madras)

M/S NAG LEATHERS PVT. LTD.

Petitioner(s)

VERSUS

M/S DYNAMIC MARKETING PARTNERSHIP REP. BY ITS PARTNERS Respondent(s)

Date : 17-02-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. S. Nagamuthu, Sr. Adv.
Mr. M.P. Parthiban, AOR
Mr. A.S. Vairawan, Adv.
Mr. R. Sudhakarn, Adv.
Ms. Shalini Mishra, Adv.

For Respondent(s) Mr. Rishabh Sancheti, Adv.
Mr. S. Prabu Ra masubramanian, Adv.
Ms. Nishtha Girotra, Adv.
Mr. Suyash Rawat, Adv.
Mr. Vishnu Unnikrishnan, Adv.
Mr. K. Paari Vendhan, AOR

UPON hearing the counsel the Court made the following
O R D E R

Mr. S. Nagamuthu, learned senior advocate for the petitioner submits that in proceedings initiated under the Insolvency & Bankruptcy Code, 2016, a moratorium was issued by the National Company Law Tribunal, Division Bench, Chennai on 10.7.2017. The relevant portion of the order reads as under:

"5. We declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process, for the purposes referred to in Section 14 of the I & B Code, 2016. We order to prohibit all of the following, namely:

(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) The recovery of any property by an owner or lessor where such property is occupied or in the possession of the corporate debtor."

He further submits that in the present case, the statutory notice under Section 138 of the Negotiable Instruments Act, 1881 was issued on 21.12.2017 whereafter the appropriate complaint has been filed against the petitioner-company.

He relied upon decision of this Court in BSI Ltd. & Anr. vs. Gift Holdings Pvt. Ltd. & Anr. [(2000) 2 SCC 737] to submit that after issuance of moratorium by the concerned Court, the Company was interdicted by the Order and as such could not have paid the requisite amount represented by the cheques.

Considering the issues that arise for our consideration, we deem it appropriate to issue notice to the learned Attorney General

for India so that any Law Officer can assist this Court on the next occasion.

List on 17.3.2020.

(INDU MARWAH)
COURT MASTER

(SUMAN JAIN)
ASSISTANT REGISTRAR

