

W.P.(C) No. 03/2017
M/s Sikkim Breweries Ltd. & Ors. vs. State of Sikkim & Ors.

BEFORE
MR. JUSTICE SATISH K. AGNIHOTRI, CJ.

02. 24.02.17 Present: Mr. Zangpo Sherpa and Mr. Dewen Sharma Luitel,
Advocates for the Petitioners.

Mr. Sudesh Joshi and Ms. Manita Pradhan, Advocates
for Respondents No. 1 and 2.

Mr. Karma Thinlay, Sr. Government Advocate with
Mr. S.K. Chettri and Ms. Pollin Rai, Asstt. Govt.
Advocates for Respondent No. 3.

Ms. Laxmi Chakraborty and Ms. Manju Rai,
Advocates for IA No. 02/2017.

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Assailing the legality and validity of the order dated 18.10.2016 rendered by the District Collector, East District at Gangtok in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act, 2002'), learned counsel appearing for the petitioners submits that the petitioners, in the light of judgment and order dated 12.03.2015 passed by a Division Bench of the High Court of Judicature at Madras in *Writ Petition No. 18365 of 2014 and M.P. Nos. 1 and 2 of 2014 : M/s G.K.K. Exports Pvt. Ltd. vs. Phoenix ARC Private Limited*, following the law settled by the Supreme Court in ***Kanaiyalal Lalchand Sachdev and Others vs. State of Maharashtra and Others : (2011) 2 SCC 782***, be permitted to withdraw this writ petition with liberty to

move the Debt Recovery Tribunal under the provisions of Section 17 of the SARFAESI Act, 2002.

Learned counsel appearing for the Bank fairly submits that since there is a statutory remedy available under the SARFAESI Act, 2002, the petitioners may be granted some time to take recourse to the statutory alternate remedy.

This petition is, accordingly dismissed as withdrawn with liberty to take recourse at appropriate forum. Considering the location of secured assets in two States namely, Sikkim and West Bengal, the dispute is amenable to DRT jurisdiction at Guwahati as well as Kolkata. The appeals may be filed, if so advised, within a period of four weeks from today.

Status quo as obtained today shall be maintained by all the parties for the said period.

In view of the aforestated order, no order is necessary in IA No. 02 of 2017, application for seeking impleadment.

Sd/-
Chief Justice
24.02.2017

jk/pm Index : ~~Yes~~ / No
 Internet : Yes / ~~No~~