

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 16TH DAY OF DECEMBER 2011

BEFORE

THE HON'BLE MRS JUSTICE B.V.NAGARATHNA

W.P No 16243 OF 2011(GM-CPC)

BETWEEN

M/S SUPERTEX LABELS PRIVATE LTD
A COMPANY REGISTERED UNDER THE COMPANIES
ACT, 1956, HAVING ITS OFFICE AT PLOT NO.
498 D/E, 4TH PHASE, 14TH CROSS
PEENYA INDUSTRIAL AREA, BANGALORE-560058
REPTD. BY ITS MANAGING DIRECTOR
MR. MANOHAR K RAO

... PETITIONER

(BY SRI. V D RAVIRAJ, ADVOCATE)

AND :

- 1 SRI. MAHESH H BHUTA
FATHER NAME NOT KNOW TO PETITIONER
MAJOR IN AGE
R/AT NO. 17, SAMUDRI, 1ST FLOOR
ASHOK NAGAR, SOCIETY N S ROAD
10, VILEPARLE(W) MUMBAI-400049
- 2 SMT. NIJMA M NOORANI
HUSBAND NAME NOT KNOW TO PETITIONER
MAJOR IN AGE
R/AT NO.9, SEAGUL, 21ST ROAD
KHAR, MUMBAI-400 052
- 3 SRI WASIM M NOORANI
FATHER NAME NOT KNOW TO PETITIONER
MAJOR IN AGE
R/AT NO.9, SEAGUL, 21ST ROAD
KHAR, MUMBAI-400 052

- 4 SMT. MADHURI ANANTRAI PATEL
FATHER NAME NOT KNOW TO PETITIONER
MAJOR IN AGE
R/AT NO. 3/4, SATYASHRAY, 1ST FLOOR
WEST AVENUE, SANTHACRUZ(W)
MUMBAI-400 054
- 5 SMT. VIJAYA NATAWARLAL PATEL
HUSBAND NAME NOT KNOW TO PETITIONER
MAJOR IN AGE
R/AT NO. 3/4, SATYASHRAY, 1ST FLOOR
WEST AVENUE, SANTHACRUZ(W)
MUMBAI-400 054
- 6 SMT. GEETHA VINODRAI PATEL
HUSBAND NAME NOT KNOW TO PETITIONER
MAJOR IN AGE
R/AT NO. 3/4, SATYASHRAY, 1ST FLOOR
WEST AVENUE, SANTHACRUZ(W)
MUMBAI-400 054
- 7 SRI CHIMANLAL GOKALDAS PATEL
FATHER NAME NOT KNOW TO PETITIONER
MAJOR IN AGE
R/AT NO.4, SHAM SMRUTI
79A, TAGORE ROAD
SANTHACRUZ(W)
MUMBAI-400 054
- 8 SMT. NAYANA RASHIKLAL PATEL
HUSBAND NAME NOT KNOW TO PETITIONER
MAJOR IN AGE
R/AT NO.4, SHAM SMRUTI
79A, TAGORE ROAD
SANTHACRUZ(W)
MUMBAI-400 054
- 9 M/S STANDARAD APPARELS(EXPORT)
B6/G, 2ND STAGE,
YESWANTHAPURA
BANGALORE-560022
REPRESENTED BY ITS
MANAGING PARTNER

... RESPONDENT S

(BY SRI M.G.KUMAR LAW FIRM, ADVOCATE FOR R6 & R8)

THIS W.P. FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 18.10.2010 PASSED BY THE XXVI ADDITIONAL CITY CIVIL JUDGE, MAYOHALL AT BANGALORE IN EX. NO.15154/2002 ON I.A. NO.1 VIDE ANNEXURE-K CONSEQUENTLY ALLOW THE I.A. NO.1 BY GRANTING LEAVE TO EXECUTE THE DECREE OBTAINED IN O.S. NO.11422/1997 AS AGAINST PARTNERS OF THE 9TH RESPONDENT HEREIN I.e. THE RESPONDENT NOS.1 TO 8 HEREIN ETC.

This petition coming on for orders this day, the Court made the following:-

ORDER

Heard the learned counsel for the parties.

2. On a close perusal of Sub-Rule 3 of Rule-50 of Order 21, it becomes clear that where there has been trial, the liability of a person to satisfy a judgment and decree which has been obtained against a partnership firm in respect of the persons not coming within the categories mentioned in sub-clause (b) and (c) of Sub-Rule 1 of Rule 50 of Order 21, then in that event, the order passed under Sub - Rule 2 read with Rule 50 can be challenged only by way of an appeal as stated in Sub Rule 3 of Rule 50 of Order 21.

3. In this view of the matter, the writ petition is not maintainable. The petitioner is permitted to file an appeal if so advised. In case there is a delay in preferring the appeal, the time taken in prosecuting this writ petition to be excluded in terms of the Limitation Act.

4. Granting such liberty, the writ petition is dismissed.

Sd/-
JUDGE

Msu

BYNJ: 16.12.2011**W.P.NO.16243 OF 2011 (G.M.CPC)****"ORDER ON FOR BEING SPOKEN TO"**

By order dated 14.12.2011, it was held that the writ petition is maintainable. However, on a close perusal of Sub-Rule 3 of Rule-50 of Order 21, it becomes clear that where there has been trial, the liability of a person to satisfy a judgment and decree which has been obtained against a partnership firm in respect of the persons not coming within the categories mentioned in sub-clause (b) and (c) of Sub-Rule 1 of Rule 50 of Order 21, then in that event, the order passed under Sub - Rule 2 read with Rule 50 can be challenged only by way of an appeal as stated in Sub Rule 3 of Rule 50 of Order 21.

In this view of the matter, the order dated 14.12.2011 is recalled and it is held that the writ petition is not maintainable.

Sd/-
JUDGE