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Kotak Mahindra Bank Limited

through :

VERSUS

Stiefel Und Schuh India Ltd. & Ors.

through :

CORAM :-

THE HON'BLE MR. JUSTICE A.K. SIKRI

1. Whether Reporters of Local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

A.K. SIKRI, J.

1. Before the promulgation of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the 'RDB Act'), civil remedy in the form of civil suits in the ordinary civil court was available to the banks and financial institutions for recovery of the debts due to them. With the aforesaid enactment, the Parliament

created special tribunal, known as Debts Recovery Tribunal (for short, 'DRT'). The banks and financial institutions are now required to institute proceedings against the debtors only before these DRTs created under the RDB Act. It is because of the reason that under Section 18 of the RDB Act, jurisdiction of civil courts to entertain such proceedings has been specifically barred. Provision is also made even in respect of existing cases pending in the civil courts. As per Section 31 of the RDB Act, every suit or every proceeding pending before any court immediately before the establishment of a Tribunal under that Act was to be transferred to the Tribunal. Thus, the Parliament took care by not only creating bar on the jurisdiction of the civil court or other authority to decide such matters, it also intended transfer of cases pending before any court or authority to the DRTs. Notwithstanding such a position contained in these two specific provisions, viz. Sections 18 and 31 of the RDB Act, we are confronted with a situation, solution whereof is not provided by any specific provision in the RDB Act. It is, therefore, by the interpretative process we are supposed to gather the intention of the Legislature to answer the issue posed in this case.

2. Before we delineate the issue involved, it is necessary to spell out factual backdrop in which such an issue has arisen.
3. State Bank of India Home Finance Ltd. (hereinafter referred to as the predecessor of the appellant bank) had granted certain loans to the respondent No.1 herein. To secure the said loans, the respondent

No.1 mortgaged its property with the appellant's predecessor. When the amount, purportedly due, was not paid by the respondent No.1 to the predecessor of the appellant, it filed a suit for foreclosure of the mortgage of immovable property and recovery of Rs.2,53,76,136/- under Order XXXIV Rule 4 of the Code of Civil Procedure (for short, 'CPC') on the Original Side of this Court. This suit was filed in the year 1996 and is registered as CS (OS) No. 2062/1996. By that time, the RDB Act had already come into force, which is of the year 1993. However, since the predecessor of the appellant was not a banking company or a financial institution, as described in the said Act, it was supposed to take recourse to civil proceedings before a civil court, which it did. Therefore, the civil suit, as on the date when filed, was properly filed in this Court and this Court had the requisite jurisdiction and competency to entertain and decide the same.

4. The predecessor-in-interest of the appellant assigned the debt to State Bank of India (SBI) on 17.2.2004, as part of its assignment of the various assets owned by it. With such an assignment of debt in favour of the SBI, the SBI moved IA No. 2269/2005 for its substitution in place of the predecessor-in-interest of the plaintiff and necessary orders in this application were passed, whereafter SBI surfaced on the scene and prosecuted the suit.
5. As a matter of fact, even SBI assigned the debt in favour of Kotak Mahindra Bank Ltd. (appellant herein) by a Deed of Assignment

dated 23.3.2006. The appellant applied for its substitution, which was also done vide orders dated 26.7.2007. After its substitution, the appellant wants transfer of the proceedings to the DRT. Its submission is that with the assignment of the debt, since the defendant in question is due to the appellant, which is a banking company, it is only the DRT which has the requisite jurisdiction to adjudicate the dispute. This plea on the part of the appellant, however, has not enthused the learned Single Judge and, therefore, the appellant's application for transfer (IA No. 1188/2008) stands rejected by the order dated 13.5.2008. Not satisfied with the view taken by the learned Single Judge, the appellant has filed FAO (OS) No. 369/2008 against that order. The second appeal also arises out of the same order passed in other suit where the appellant has become successor-in-interest under the identical circumstances. It is for this reason that both these appeals were heard together.

6. Common issue in these two appeals, thus, which needs consideration is as to whether the civil court (i.e. the Delhi High Court in the instant case) loses jurisdiction to entertain the suit and the matter now comes under the exclusive domain of DRT which only has the jurisdiction to entertain the matters.
7. Before taking note of the arguments of the respective parties, we should reproduce the relevant provisions of the RDB Act as in the light of those provisions the arguments would be better appreciated.
8. Section 2(g) of the RDB Act, which defines a '*debt*', reads as under :-

(g) “debt” means any liability (inclusive of interest) which is claimed as due from any person by a bank or a financial institution or by a consortium of banks or financial institutions during the course of any business activity undertaken by the bank or the financial institution or the consortium under any law for the time being in force, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on, the date of the application;

Section 17 deals with the jurisdiction of the DRT and is couched in the following language :-

Jurisdiction, powers and authority of Tribunals

17. (1) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.

(2) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Act.

Section 18 and 31, to which reference has already been made, and additionally relevant portion of Section 19, note whereof is also required to be taken, are worded as under:-

“Bar of jurisdiction

18. On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17.

Application to the Tribunal

19. (1) Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction—

(a) the defendant, or each of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or

(c) the cause of action, wholly or in part, arises :

[Provided that the bank or financial institution may, with the permission of the Debts Recovery Tribunal, on an application made by it, withdraw the application, whether made before or after the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004 for the purpose of taking action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), if no such action had been taken earlier under that Act :

Provided further that any application made under the first proviso for seeking permission from the Debts Recovery Tribunal to withdraw the application made under sub-section (1) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:

Provided also that in case the Debts Recovery Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor.]

(2) Where a bank or a financial institution, which has to recover its debt from any person, has filed an application to the Tribunal under sub-section (1) and against the same person another bank or financial institution also has a claim to recover its debt, then, the later bank or financial institution may join the applicant bank or financial institution at any stage of the proceedings, before the final order is passed, by making an application to that Tribunal.

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Transfer of pending cases

31. (1) Every suit or other proceeding pending before any court immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal :

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before any court.

(2) Where any suit or other proceeding stands transferred from any court to a Tribunal under sub-section (1),—

(a) the court shall, as soon as may be after such transfer, forward the records of such suit or other proceeding to the Tribunal; and

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit or other proceeding, so far as may be, in the same manner as in the case of an application made under section 19 from the stage which was reached before such transfer or from any earlier stage as the Tribunal may deem fit.”

9. It is not in dispute that the subject matter of the suit would be covered by the definition of ‘*debt*’ under Section 2(g) of the RDB Act. It is also not in dispute that the appellant, who is the successor-in-interest, would satisfy the requirement of the definition of the ‘*bank*’, as contained in Section 2(d)(ii) of the RDB Act. At the same time, as far as the specific answer to the issue which has arisen in the facts of this case is concerned, it has not gathered any direct answer from the provisions of the RDB Act.
10. As mentioned above, Section 18 bars the jurisdiction of civil court. However, it starts with the expression “*On and from the appointed date...*” The appointed date is 24.6.1993. Therefore, any fresh legal proceedings by the banking institution for recovery of its debt after the appointed date cannot be filed in civil court and have to be necessarily instituted before the DRT. In the instant case, the fact remains, the original claimant was not a bank and, therefore, when the suit was instituted after the appointed date on which the RDB Act came into force, it is the civil court only which had the jurisdiction. Such proceedings by the predecessor-in-interest could not have been filed before the DRT. For that matter, as on that date, the DRT had no jurisdiction to entertain such proceedings.

11. Section 31 of the RDB Act, on the other hand, deals with the transfer of those suits or proceedings which were pending before any court immediately before the establishment of a Tribunal under the RDB Act, over which the Tribunal would have to exercise jurisdiction if such action had to be initiated after its establishment. When the Tribunal was created, present proceedings were not pending in the civil court and, therefore, in *stricto sensu*, the situation with which we are confronted with is not contemplated by Section 31 of the RDB Act.
12. In this scenario, the issue to be determined is as to how proceedings are to be dealt with once they were properly instituted by filing a suit in the civil court by a non-banking/non-financial institution, but after the filing of the suit, debt is assigned to a banking institution.
13. The learned Single Judge has held that since it is neither a case of barred jurisdiction under Section 18 nor a case where the suit is pending on the date of establishment and is, therefore, needed to be transferred, but the issue relates to '*losing jurisdiction*' over a matter which the civil court originally had. In the opinion of the trial court, the Parliament did not intend such cases to be transferred for the following reasons contained in the impugned order:-

“6. Now a plain reading of Section 18 would suggest that the plaintiff's contention appears to be sound and feasible. Yet, a deeper analysis would belie the argument. Parliament intended only one *species* of action, i.e. cases pending as on date of *establishment of the tribunal*, under Section 31 to be transferred. Neither Section 17 nor Section 18 anywhere provide, nor does any other provision of the Act, state whether acquisition of a debt, and an attendant *competently instituted litigation* such as a recovery suit, would be subject to transfer. Here, the original

creditor-plaintiff was clearly no bank or financial institution entitled to invoke provisions of the Act; this suit was therefore competent and maintainable. It is only a supervening or intervening event which has raised this controversy, whereby the assignee plaintiff has acquired the asset (i.e. the debt of the first defendant). It could well be that this might be later assigned to another entity, which may not be a bank or financial institution. If the plaintiff's logic were to be accepted, in such event, the matter would have to be sent back to a civil court. Obviously, such anomalous situations were not contemplated by Parliament. Another aspect; if Parliament had intended that in the eventuality banks acquired or became assignees of debts which were subject to competently instituted litigation, and such litigation were to be transferred to the tribunal, such an intention would have been more explicit. It is well settled that courts should not readily infer ouster of jurisdiction of civil courts, unless there are express provisions or an inescapable implication is shown (*Dhulabhai v. State of M.P.* AIR 1969 SC 78; *Premier Automobiles Ltd. v. Kamlekar Shantaram Wadke* (1976) 1 SCC 496; *Bata Shoe Co. Ltd. v. City of Jabalpur Corpn* (1977) 2 SCC 472 *Munshi Ram v. Municipal Committee, Chheharta* (1979) 3 SCC 83 and *Raja Ram Kumar Bhargava v. Union of India* (1988) 1 SCC 681).

14. Challenging the aforesaid order, the submission of learned counsel for the appellant was that once it is accepted that the claim is a debt under Section 2(g) of the RDB Act and the appellant (who is the plaintiff now in the suit) is a banking institution, then after the promulgation of the Act, the adjudication of the said claim can only be by the DRT established under the RDB Act. He argued that intention was manifest by the conjoint reading of Sections 17,18,19 & 31 of the RDB Act. In no uncertain terms, the Legislature intended that on the creation of DRTs, civil court shall not entertain such proceedings. Even, provision in the form of Section 31 of the RDB Act to transfer all pending cases, which clearly signifies the intention of the Legislature, viz. on the establishment of the Tribunal under the Act, even pending cases will not be adjudicated upon by the civil courts as exclusive jurisdiction was conferred upon DRTs stipulating

the scope of its jurisdiction under Section 17 of the RDB Act. For support, he referred to the following judgments :-

- (i) *United Bank of India, Calcutta v. Abhijit Tea Co. Ltd. & Ors.*
(2000) 7 SCC 357
- (ii) *Allahabad Bank v. Canara Bank & Anr.,*
AIR 2000 SC 1535

15. Learned counsel for the respondent, on the other hand, in addition to falling back on the reasons given by the trial court, submitted that act of transfer of debt was a private act between the two parties, namely, the appellant and its predecessors, without any involvement of the respondent No.1. Such a private act cannot clothe jurisdiction on DRT. He also submitted that even with the creation of special tribunals and confirmation of exclusive jurisdiction upon them, jurisdiction of civil courts remain under certain circumstances as ouster of jurisdiction of civil courts is not to be readily inferred. A situation which is not contemplated and dealt with under the RDB Act should not be allowed by drawing inferences. His further submission was that the only material aspect was that the suit, when filed in this court, was validly filed and, therefore, the civil court had the jurisdiction to entertain the suit. It could lose jurisdiction only when the circumstance was specifically provided under the RDB Act. He also referred to the judgment of the Supreme Court in *Ramesh Chand Ardawatiya v. Anil Panjwani*, AIR 2003 SC 2508, wherein the Court had laid down the principle that jurisdiction of civil court would not get totally excluded even if exclusive jurisdiction is conferred on special tribunals and further that jurisdiction of the civil

court is to be raised at an earlier stage. This principle finds in para 19 of the said judgment, which is extracted below :-

“19. We find, as would be dealt with hereinafter, the first two pleas devoid of any merit, but partial merit in the last plea. As to the first submission, we find that the Civil Court does not suffer from any inherent lack of jurisdiction. Where there is a special Tribunal conferred with jurisdiction or exclusive jurisdiction to try particular class of cases even then the Civil Court can entertain a civil suit of that class on availability of a few grounds. An exclusion of jurisdiction of Civil Court is not to be readily inferred. (See Dhulabhai etc. v. State of Madhya Pradesh and Anr. - (1963) 3 SCR 662). An objection as to the exclusion of Civil Court's jurisdiction for availability of alternative forum should be taken before the Trial Court and at the earliest failing which the higher Court may refuse to entertain the plea in the absence of proof of prejudice.”

16. As pointed out by us in the beginning, the particular fact situation with which we are confronted with is not postulated specifically under the provisions of the Act. However, if one is to give due regard to Section 18 read with Section 31 of the RDB Act, the manifest intention of the Legislature was to exclude the jurisdiction of the civil court in relation to those matters which are triable by DRT. For conferring jurisdiction of the DRT, the necessary conditions which are to be fulfilled are the following :-

- (a) claim is a ‘*debt*’ under the provisions of Section 2(g) of the RDB Act; and
- (b) the claimant is a bank under the provisions of Section 2(d)(ii) of the RDB Act.

If these two conditions are satisfied, DRT assumes jurisdiction under Section 17 of the RDB Act as from the appointed date, it is the DRT which has to exercise the jurisdiction, power and authority to entertain and decide applications from the bank and financial institutions for recovery of debts due to them. Such a jurisdiction is

exclusive, as held by the Apex Court in *Allahabad Bank v. Canara*

Bank (supra) in the following terms :-

“ 22. We hold that the provisions of Sections 17 and 18 of the RDB Act are exclusive so far as the question of adjudication of the liability of the defendant to the appellant Bank is concerned.

(ii) execution of Certificate by Recovery Officer: Is his jurisdiction exclusive

23. Even in regard to 'execution', the jurisdiction of the Recovery Officer is exclusive. Now a procedure has been laid down in the Act for recovery of the debt as per the certificate issued by the Tribunal and this procedure is contained in Chapter V of the Act and is covered by Sections 25 to 30. It is not the intendment of the Act that while the basic liability of the defendant is to be decided by the Tribunal under Section 17, the Banks/ Financial Institutions should go to the Civil Court or the Company Court or some other authority outside the Act for the actual realisation of the amount. The certificate granted under Section 19(22) has, in our opinion, to be executed only by the Recovery Officer. No dual jurisdictions at different stages are contemplated. Further, Section 34 of the Act gives overriding effect to the provisions of the RDB Act. That Section reads as follows:

Section 34(1): Act to have over-riding effect-

(1) Save as otherwise provided in Sub-section (2), the provisions of this Act shall effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

(2) The provisions of this Act or the rules made thereunder shall be in addition to, and not in derogation of, the Industrial Finance Corporation Act, 1948 (15 of 1948), the State Financial Corporations Act, 1951 (63 of 1951), the Unit Trust of India Act, 1963 (52 of 1963), The Industrial Reconstruction Bank of India Act, 1984 (62 of 1984) and the Sick Industrial Companies (Special Provisions) Act, 1985(1 of 1986).

The provisions of Section 34(1) clearly state that the RDB Act overrides other laws to the extent of 'inconsistency'. In our opinion, the prescription of an exclusive Tribunal both for adjudication and execution is a procedure clearly inconsistent with realisation of these debts in any other manner.

24. There is one more reason as to why it must be held that the jurisdiction of the Recovery Officer is exclusive. The Tiwari Committee which recommended the Constitution of a Special Tribunal in 1981 for recovery of debts due to Banks and

Financial Institutions stated in its Report that the exclusive jurisdiction of the Tribunal must relate not only in regard to the adjudication of the liability but also in regard to the execution proceedings. It stated in Annexure XI of its Report that all "execution proceedings" must be taken up only by the Special Tribunal under the Act. In our opinion, in view of the special procedure for recovery prescribed in Chapter V of the Act, and Section 34, execution of the certificate is also within the exclusive jurisdiction of the Recovery Officer.

25. Thus, the adjudication of liability and the recovery of the amount by execution of the certificate are respectively within the exclusive jurisdiction of the Tribunal and the Recovery Officer and no other Court or authority much less the Civil Court or the Company Court can go into the said questions relating to the liability and the recovery except as provided in the Act. Point 1 is decided accordingly.”

17. Immediately after Section 17, provision is created for bar of jurisdiction of other courts in the form of Section 18 of the RDB Act. This section is very strongly worded and it provides a negative covenant and mandates that no court or other authority shall have any jurisdiction, power or authority in relation to the matters specified in Section 17. To amplify this intention, it also mandates that no court or authority shall even be entitled to exercise any jurisdiction, power or authority in relation to the matters specified in Section 17 of the RDB Act. Thus, after the Act came into force civil court or other authority neither has the jurisdiction, power or authority, nor is entitled to exercise any such jurisdiction, power or authority in respect of those matters which are covered by Section 17 of the RDB Act.

It is the interpretation of this provision, along with Section 31, which came up before the Supreme Court in *Abhijit Tea Co.* (supra). In para 11 of the said judgment, four questions were formulated which had arisen for consideration in the said appeal. The said case

related to a suit which was filed prior to coming into force of the provisions of the Act as it was instituted in the year 1985 and the Court had held that, on remand by the Division Bench to the Single Judge, it is not the date of remand but the date of initial institution that would be relevant. At the same time, the Court also considered the combined effect of Section 18 and 31 of the RDB Act, on which Issue No.2 was delineated. While answering this issue, the Court made very pertinent observations which would be a pathfinder for us. These are contained in the following paras :-

“23. If indeed the contention of the learned Senior counsel for the respondents, Sri Shanti Bhushan and Dr. Rajeev Dhawan is to be accepted, a strange result would follow inasmuch as, on a combined reading of Sections 18 and 34 of the Act, the suit can neither be transferred to the Tribunal nor can it be decided by the learned Single Judge in view of the clear prohibition in Section 18 of the Act. If it is not to be transferred to the Tribunal and if it is to be retained in the Civil Court, without disposal as contended, then there will be a stalemate. It has to be kept perpetually pending in the Civil Court and necessarily the file has to be consigned to the record room. Or the plaint will have to be returned for presentation before the proper court or Tribunal. That was surely not the intendment of the Act of 1993. When this aspect was put to the learned Senior counsel for the respondents, there was practically no answer. It was, no doubt, faintly suggested by Dr. Rajeev Dhawan that the bar in Section 18 does not apply to remanded suits but we are unable to agree. As stated earlier, they stand revived in law with continuity and therefore the bar under Section 18 clearly applies.

24. The above result is also reached by the application of the principle of purposive construction.

25. In regard to purposive interpretation, Justice Frankfurter observed as follows:

“Legislation has an aim, it seeks to obviate some mischief, to supply an inadequacy, to effect a change of policy, to formulate a plan of government. That aim, that policy is not drawn, like nitrogen, out of the air; it is evidenced in the language of the statute, as read in the light of other external manifestations of purpose (“Some

Reflections on the Reading of Statutes) 47 Columbia LR 527 at 538) (1947).”

26. That principle has been applied to this very Act by this Court recently in Allahabad Bank v. Canara Bank AIR 2000 SC 1535. If the said principle is applied, it is clear that the provision in Section 31 must be construed in such a manner that, after the Act, no suit by the Bank is decided by the civil Court and all such suits are decided by the Tribunal.

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32. There is yet another aspect of the matter. Even assuming that the suit was not pending 'immediately' before the establishment of the Tribunal before the Single Judge but came before him on remand after 27.4.94, the crucial date, and even assuming that the Registrar of the High Court could not have transferred the suit to the Tribunal on 27.4.94 as the appeal was pending before the Division Bench, it would, in view of the prohibition in Section 18, be necessary for the High Court to transfer the Bank's suit under Article 227 of the Constitution of India to the Tribunal.

33. For the aforesaid reasons, we hold that the principle of purposive interpretation is to be applied to Sections 18 and 31 of the Act and that suit 410/1985 filed by the Bank in 1985 and which stood remanded by the appellate Court on 11.8.98 must in the eye of the law be deemed pending before the Single Judge and that it would stand transferred to the Tribunal. The High Court was, therefore, in error in retaining the same on the original side. Points 1 and 2 decided in favour of the appellant.”

18. If transfer is not allowed and suit is to remain in this Court, by reason of Section 18 of the RDB Act, this Court shall not have jurisdiction, power or authority to decide the suit nor it can exercise any such jurisdiction, power or authority. That would result in the stalemate of the proceedings, as contemplated by the Apex Court in para 23 of the aforesaid judgment. In fact, in para 32, the Supreme Court made observations visualizing almost identical fact situation which prevails in this case. As per the Apex Court, even when there is no specific provision in the RDB Act to deal with such a situation, power is to be exercised under Article 227 of the Constitution for transferring the matter to the Tribunal.

19. The case of *Ramesh Chand Ardawatiya* (supra), as relied upon by the respondent No.1, would not be of any aid to the respondent No.1. That was a case where civil suit was filed by the plaintiff. Apart from other contentions, the defendant has raised the plea of jurisdiction of the civil court on the ground that Section 75 and 137 of the Rajasthan Co-operative Societies Act, 1965 provided for special tribunal, i.e. arbitration, through which disputes could be adjudicated. It was found that as per Section 75 disputes between the members, past members and persons claiming through members or members of the society or society and its committee, etc. could be decided. However, in that case the Court found that there was nothing to show that the defendant was also a member of the society or was claiming through a member. The Court also found that the plaintiff did not have any dispute with another member of the society or the society itself. Therefore, such a dispute was not covered by any of the clauses mentioned in sub-section (1) of Section 75 of the Societies Act. In this backdrop, it was also held that those disputes which are not covered by Section 75 of the Act could be decided by a civil court. In the present case, however, all the ingredients to cloth DRT with the necessary jurisdiction, as contained in Section 17 of the Act, stand satisfied.
20. No doubt, it is a case of '*losing*' jurisdiction on a later date. However, it is precisely the same position which is contemplated by Section 31 of the RDB Act, *al bi et*, on passing of the said Act. Before the enactment, suits in the civil courts were competent. However,

the civil courts lost jurisdiction to entertain even pending suits in view of the provision like Section 31 of the RDB Act providing for transfer of the pending suits.

21. These appeals are accordingly allowed. Impugned orders dated 13.5.2008 passed in the two suits are set aside. The Registry is directed to transfer the record to the DRT. Parties shall appear before the DRT on 11th February 2009.

The applications also stand disposed of.

(A.K. SIKRI)
JUDGE

(MANMOHAN SINGH)
JUDGE

January , 2009
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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ FAO (OS) No. 370/2008 & CM No. 12450/2008

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Reserved on : October 23, 2008
Pronounced on : January 09, 2009

Kotak Mahindra Bank Limited

. . . Appellant

through :

Mr. T.K. Ganju, Sr. Advocate
with Mr. B.L. Wali, Advocate

VERSUS

Stiefel Und Schuh India Ltd. & Ors.

. . . Respondents

through :

Mr. Sanjoy Kr. Ghose with
Ms. Rupali S. Ghosh, Advocates
for the respondent No.1/OL.
Mr. Deepak Dhingra with
Mr. Rajesh Kumar, Advocates
for the respondent Nos. 5, 7 & 8.
Mr. Kewal Singh Ahuja, Advocate
for the respondent No.6.

CORAM :-

THE HON'BLE MR. JUSTICE A.K. SIKRI

THE HON'BLE MR. JUSTICE MANMOHAN SINGH

1. Whether Reporters of Local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

A.K. SIKRI, J.

For orders, see FAO (OS) No. 369/2008.

(A.K. SIKRI)
JUDGE

(MANMOHAN SINGH)
JUDGE

January 09, 2009

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