IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. Civil Writ Petition No. 6658 of 2015(O&M)

Date of Decision: August 5 , 2015.

Alka Sharma and others ...... PETITIONER(s)

Versus

The UCO Bank and another ...... RESPONDENT (s)

2. Civil Writ Petition No. 7442 of 2015(O&M).

Ramesh Vallabh Sharma ...... PETITIONER(s)

Versus

The UCO Bank and another ...... RESPONDENT (s)

CORAM:- HON'BLE MR.JUSTICE HEMANT GUPTA
HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. S.K.Tripathi, Advocate
for the petitioners.

Mr. I.S.Chauhan, Advocate
for the respondents.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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HEMANT GUPTA, J.

This order shall dispose of CWP No.6558 of 2015 (Alka Sharma and others v. The UCO Bank and another) and CWP No.7442 of 2015 (Ramesh Vallabh Sharma v. The UCO Bank and another).

The petitioners are borrowers from respondent-UCO Bank having availed two separate housing loans and two cash credit limits in respect of M/s RVS International through Ramesh Vallabh Sharma & Alka Sharma and M/s Kohinoor Export-Import through its proprietor Ramesh Vallabh Sharma. The property mortgaged in respect of credit limits is the house against which the housing loan has also been availed. The property is situated in Gurgaon within the jurisdiction of this Court.

On account of defaults committed in not making the payment of loan amount, the respondent-Bank initiated proceedings under the Securitization and Reconstruction of Financial and Enforcement of Security Interest Act, 2002 (for short, the 'Act'). Such proceedings were challenged by the petitioners vide SA No.407 of 2011 and SA No.406 of 2011 before Debts Recovery Tribunal-III, Delhi. On the other hand, respondent-Bank has also filed OA No.699 of 2013 and OA No.700 of 2013 against the M/s Kohinoor Export-Import and M/s RVS International, respectively. The Bank has also filed OA No.428 of 2013 and OA No.158 of 2015 in respect of housing loan which are pending consideration before the Debts Recovery Tribunal-III, Delhi.

The petitioners have filed SA No.221 of 2014 and SA No.222 of 2014 before the Debt Recovery Tribunal-I, Chandigarh against the action initiated by the Bank under Section 17 of the Act. Thus, there are four applications under Section 17 of the Act filed by the petitioners, two before the Debts Recovery Tribunal, Delhi and two before the Debts Recovery Tribunal, Chandigarh. On the other hand, Bank has filed four original applications under Section 19 the Recovery of Debt Due to the Banks and Financial Institutions Act, 1993.

Since the property mortgaged is common in the cash credit limit account as well as the housing loan account and that too within jurisdiction of this Court, it will be advisable and appropriate to hear and decide all the SAs filed under Section 17 of the Act by the one Tribunal so as to avoid contradictory orders in respect of the same mortgaged property.

The petitioner has filed an application for consolidating all the cases before one Tribunal but the same was declined by learned Debts Recovery Appellate Tribunal, Delhi on 20.05.2015 for the reason that if the Tribunal at Delhi would not have jurisdiction, it is open to the petitioners to raise relevant pleas before the Tribunal below but transferring of OAs and SAs cannot be made to create jurisdiction.

Learned counsel for the parties admit that the Debts Recovery Tribunal, Delhi as well as Debts Recovery Tribunal, Chandigarh has the jurisdiction to entertain the applications under Section 17 of the Act in view the judgment of Delhi High Court reported as **Amish Jain and another v. ICICI Bank Ltd., *2013(2) RCR(Civil) 252***.

Thus, we find that the reasoning given by the learned Debts Recovery Appellate Tribunal cannot be sustained in law as it is not a lack of jurisdiction which prompted the petitioners, herein, to seek transfer of the application under Section 17 of the Act but to avoid contradictory judgments in respect of a same mortgaged property.

In view of the above, we deem it appropriate to transfer the SA No.407 of 2011 (RVS International v. UCO Bank) and SA No.406 of 2011 (Kohinoor Export-Import v. UCO Bank) to Debts Recovery Tribunal-I, Chandigarh to be taken up for hearing alongwith with SA No.221 of 2014 (Alka

Sharma and others v. UCO Bank) and SA No.222 of 2014 (Ramesh Vallabh Sharma v. UCO Bank).

The Debts Recovery Tribunal, Delhi will continue to hear and decide the Original Applications filed by the Bank under the Recovery of Debt Due to the Banks and Financial Institutions Act, 1993.

With the said observation and direction, the writ petition stands disposed of.

Parties through their counsel are directed to appear before the Debts Recovery Tribunal-I, Chandigarh on 21.08.2015, the date fixed in the other two SAs pending before the Tribunal.

We have no doubt that the Debts Recovery Tribunal-I, Chandigarh shall decide all the applications under Section 17 of the Act expeditiously, in accordance with law.

(HEMANT GUPTA)
JUDGE

(LISA GILL)
JUDGE

August 5 , 2015.
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