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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3832/2015

% ***Judgment dated 14th July, 2015***

ABHINAV NANDA ..... Petitioner

Through : Mr. Tarun Diwan, Advocate.

versus

HDFC BANK LTD ..... Respondent

Through : None.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (*ORAL*)

CM APPL. 6856/2015

1. Exemption allowed subject to just exceptions.
2. Application stands disposed of.

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3. Challenge in this writ petition is to the order dated 09.02.2015 passed by the Debts Recovery Appellate Tribunal. The facts which have given rise to the filing of the writ petition are that an OA was filed by the respondent bank before the Debt Recovery Tribunal for recovery of a sum of Rs.12,21,713/-. Financial assistance was granted to the petitioner herein in the form of overdraft facility of Rs.20,00,000/- and agreement-cum-pledge-cum-guarantee deed dated 26.09.2000 was executed in favour of the bank. Loan facilities were granted. The Tribunal allowed the claim of

the bank with interest @ 15% from 25.10.2001 onwards. An appeal was filed before the Debts Recovery Appellate Tribunal.

4. The prime grievance of the petitioner before the Debts Recovery Appellate Tribunal against the order dated 24.07.2013 passed by the Debts Recovery Tribunal was that the petitioner had requested the bank to sell the shares which were pledged with the bank at the appropriate time. Since the bank failed to sell the shares as requested by the petitioner, the petitioner suffered heavy losses. Another ground raised was that the bank was duty bound to issue notice before sale of shares in the open market so as to give an opportunity to the petitioner to get a better price. We may note that the petitioner had raised a counter claim as according to the petitioner, in case the shares were sold when the petitioner had requested the bank, the value of the shares was much higher. This plea of the petitioner was rejected by the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal. Identical grounds have been raised by the petitioner before this Court as well. The stand of the petitioner herein did not find favour with the Debts Recovery Tribunal as the Tribunal held that the petitioner had failed to prove the price of the shares at the time of issuance of the letter to the bank. The petitioner has placed reliance on a letter dated 03.02.2001 wherein he had written to the bank to sell the pledged shares. However, the bank failed to act as stated in the letter and sold the shares at a time when the price of the shares had gone down drastically which resulted in a loss to the petitioner. The petitioner had stated that the market rate of the Penta Media was Rs.270/- per share and the value of the Silver Line was Rs.255/- per share when the letter dated 03.02.2001 was issued. Both the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal have held that the petitioner did not adduce

any evidence to show what was the market rates of the shares on the date when the letter of 03.02.2001 was issued.

5. In the absence of any evidence in support of the plea with regard to the price of the shares, we find that there is no infirmity in the order of the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal as the onus was on the petitioner to prove the price of the shares at the appropriate time. Resultantly, we find no grounds to interfere in this writ petition; the same is accordingly dismissed.

CM. APPL 6855/2015(stay)

6. In view of the order passed above, the application stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JULY 14, 2015
sc/pst