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

+ W.P.(C) 5638/2015

% *Judgment dated 14th December, 2015*

VIJAY GUPTA

..... Petitioner

Through : Mr.V.P. Singh, Sr. Adv. with Mr.B.B. Gupta, Ms.Geeta Goel and Mr.Chetan Swarup, Advs. with petitioner in person.

versus

CENTRAL BANK OF INDIA & ORS

..... Respondents

Through : Mr.S.A. Khan, Adv. for respondent no.1. Mr.Harish Malhotra, Sr. Adv. with Mr.Anil Kumar, Adv. for respondents no.2 to 5, 7, 8 and 10.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a direction to quash/set aside the order dated 18.3.2015 passed by Debts Recovery Appellate Tribunal in Misc. Appeals (hereinafter referred to as the '*Appellate Tribunal*') No.78/2015 in O.A.No.184/2001 and 79/2015 in O.A.No.185/2001, whereby the Appellate Tribunal has dismissed the appeals of the petitioner *in liminie* and upheld the order dated 20.1.2015 passed by Debts Recovery Tribunal (hereinafter referred to as the '*Tribunal*').
2. In this case, respondents no.2 to 10 had approached respondent no.1-Bank for financial assistance. Title deeds of two properties i.e. (i) property out of Khasra No.2/16/1, 2/17, 2/23, 2/24/2, 6/3/2, 6/3/1 and 6/4/2, situated at Village Karwal Nagar, Ilaka Shahdara, Delhi-94; and (ii) the property

situated at Hodal, Haryana, were handed over to respondent no.1-Bank with a view to create equitable mortgage over these properties. Respondents no.2 to 10 thereafter cleared the entire dues of respondent no.1-Bank and sought return of title deeds of the aforesaid properties, however, the Bank was unable to locate the title deeds of the aforesaid properties. According to the Bank, title deeds of the mortgaged properties were handed over to the then Advocate, Mr.Vijay Gupta, who was appearing in the matter, on behalf of the Bank. According to Mr.Vijay Gupta, who was then appearing, title deeds of both the properties are not available with him.

3. With a view to solve this impasse, with the consent of learned senior counsel appearing on behalf of the petitioner, counsel for respondent no.1-Bank on instructions and learned senior counsel appearing on behalf of the borrower, present writ petition stands disposed of with the following agreed directions.

- i) Four certified copies of the entire chain of documents, obtained by respondent no.1-Bank, with respect to the property situated at Hodal, Haryana, have been handed over by counsel for respondent no.1-Bank to Mr.Malhotra, senior counsel appearing on behalf of respondents no.2 to 5, 7, 8 and 10;
- ii) Mr.Khan submits that the Sub-Registrar-IV has informed respondent no.1-Bank that the title deed of the property out of Khasra No.2/16/1, 2/17, 2/23, 2/24/2, 6/3/2, 6/3/1 and 6/4/2, situated at Village Karwal Nagar, Ilaka Shahdara, Delhi-94, registered on 11.1.1988 at Registration No.88, Volume No.2009, Pages 183 to 197, entered before Sub-Registrar-IV on 11.1.1988, is not traceable with the Sub-Registrar-IV, Delhi. The Bank would certify the photocopy of the aforesaid title deed dated 7.1.1988 as

true copy and hand over the same to respondents no.2 to 5, 7, 8 and 10;

- iii) It is agreed that a public notice would be issued at the cost of Mr.Vijay Gupta, once the draft of public notice shall be finalised between Mr.Harish Malhotra and Mr.V.P. Singh, within ten days from today. The public notice would appear in the daily, '*The Statesman*', within three weeks from today.
- iv) Mr.Khan, counsel for the Bank, also submits that the entire payment stands received by respondent no.1-Bank based on a compromise and the Bank has no lien over these properties;
- v) Mr.Vijay Gupta, Advocate, who is present in Court, states that no mortgage was created and the documents were used only for the purpose of contesting the matter before Tribunal by the petitioner.

Counsel for the parties submit that in view of the arrangement arrived at between the parties, orders dated 18.3.2015 and 20.1.2015 be set aside. Ordered accordingly.

CM APPL.10153/2015 (STAY)

- 4. Application stands disposed of in view of the order passed in the writ petition.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 14, 2015

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