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

+ **W.P.(C) 7655/2015**

% ***Judgment dated 12th August, 2015***

VISHAL BAGARIA

..... Petitioner

Through : Mr. Arjun Harkauli, Advocate

versus

STANDARD CHARTERED BANK & ANR

..... Respondents

Through : *Nemo*

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

CM APPL 14946/2015

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

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3. Petitioner seeks a direction to quash order dated 24.02.2015 passed by the Debts Recovery Appellate Tribunal (hereinafter referred to as 'DRAT') by which the DRAT has directed release of pre-deposit amount (in appeal) in favour of the respondent bank. Counsel for the petitioner submits that the petitioner is neither a borrower nor a guarantor.
4. An OA was filed before the Debts Recovery Tribunal (hereinafter referred to as 'DRT') in the year 2000 for recovery of Rs.7,37,84,093.13. Respondent no.1 had sought financial assistance from State Bank of India.

By an order of 05.09.2011 in SA filed by respondent no.2, the DRT had granted stay of proceedings, subject to the condition of deposit of Rs.1.0 Crore within two weeks and Rs.50 Lakhs per month till the total dues are cleared or final decision of SA filed by respondent no.2.

5. Aggrieved by the aforesaid order, respondent no.2 approached the DRAT. By an order dated 15.02.2013, the DRAT granted time to respondent no.2 to deposit 50% of the amount claimed as per notice under Section 13(2), SARFAESI Act. The DRAT also noticed that respondent no.2 had deposited the pre-deposit amount. Finally, on 17.09.2014, the appeal filed by respondent no.2 was dismissed. The bank made an application for release of the pre-deposit amount deposited by respondent no.2. Respondent no.2 opposed the request of the bank on the ground that the pre-deposit amount did not belong to her, but was arranged with the assistance of the petitioner herein. Since the DRAT by an order dated 24.02.2015 directed release of the amount to the bank, the petitioner has approached this Court.
6. We find no ground to interfere in the order of the DRAT for the reason that the petitioner is neither a party in the DRT or DRAT nor the petitioner has deposited the amount, nor it is the case of the petitioner that at the time of deposit, any condition was accepted by the DRAT for refund.

7. Another submission has been raised before us that the amount cannot be adjusted by the bank as a final decree has not been passed. This ground is also not available to the petitioner and, even otherwise, the loan amount is far more than the pre-deposit amount and adjustment of the amount will be subject to the final order, which may be passed by the DRT.
8. We find no merit in the petition; the same is accordingly dismissed.

CM.APPL 14945/2015(stay)

9. Since the present writ petition has been dismissed, the application also stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 12, 2015

pst