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

\+ W.P.(C) 7103/2015

% ***Judgment dated 28th July, 2015***

GAGAN KHOSLA AND ORS. ..... Petitioners
Through : Mr. Sandeep P. Agarwal and Mr.Rajesh Pathak, Advocates

versus

CANARA BANK ..... Respondent
Through : Mr. V.K. Tandon, Advocate

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

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

CM APPL. NO.13025/2015.

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

W.P.(C) 7103/2015.

3. Present petition has been filed by petitioners under Articles 226 and 227 of the Constitution of India seeking a direction to set aside the order dated 24.7.2015 passed by Debts Recovery Appellate Tribunal (hereinafter referred to as "*DRAT*") in Inward No.445/2015 in O.A.No.99/2003, whereby the DRAT has refused to interfere in the Order dated 16.7.2015 passed by Debts Recovery Appellate Tribunal-II (herein after referred to as "*the Tribunal*) in O.A. No.99/2003.
4. Mr.Sandeep P. Agarwal, learned counsel for the petitioners, submits that the petitioners have settled with six banks out of seven banks. The petitioners have also made various proposals to the respondent bank for a

one-time settlement including the last proposal dated 20.6.2015 but the respondent bank has not responded. Counsel further contends that petitioners no.1 and 2 are the joint owners of a residential house which, in any case, is exempted from attachment under Section 60 (1) (ccc) of the Code of Civil Procedure read with Section 10 of the Second Schedule of Income Tax Act, 1961. In support of this submission, reliance has been placed by Mr.Agarwal in the case of ***Indo Foreign Commercial Agency (Produce) Pvt. Ltd. v. Punjab and Sind Bank***, reported at 2011 (183) DLT 682.

5. Mr.Agarwal further contends that the petitioners have also made an application before the Tribunal that before finally deciding the matter, the petitioners should be given a fair chance to settle the matter with the bank and in case a final decree is passed, the bank shall not be able to entertain the request of the petitioners for a settlement as per Reserve Bank of India Guidelines, which shall cause serious prejudice to the rights of the petitioners.

6. Mr.V.K. Tandon, learned counsel for the respondent, enters appearance on an advance copy and submits that in case the petitioners make a genuine offer, the respondent Bank shall consider the same in accordance with law.

7. Having heard learned counsel for the parties and taking into consideration the submissions made, we feel that it would be in the interest of justice to allow the petitioners to approach the respondent Bank and seek a one-time settlement. However, we make it clear that this procedure cannot unending and the petitioners cannot be permitted to delay the proceedings on the pretext of a settlement.

8. Accordingly, as agreed, the petitioners shall approach the Chief Manager, Canara Bank, on 31.8.2015, at 11.00 A.M. If the proposal is found

favourable, it would be open for the Chief Manager, Canara Bank, to arrange for a meeting with the higher officials which would be done within a period of four weeks from today.

9. We further make it clear that while passing this order, we have not made any observation on the merit of the matter and this order is passed as Mr.Agarwal has submitted before this Court that petitioners shall make serious efforts to settle the matter. We also make it clear that status quo order passed by the Tribunal with respect to the residential house of the petitioners would not come in the way of settlement. Both the parties agree to seek an adjournment before the Debts Recovery Tribunal for six weeks.

10. Accordingly, present petition stands disposed of in view of above.

CM APPL. NO.13024/2015.

11. Application stands disposed of in view of the order passed in the petition.

12. Let a copy of this order be given DASTI under the signature of Court Master.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JULY 28, 2015
msr