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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10237/2015**

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Date of Judgment : 02.11.2015

REKHA VERMA

..... Petitioner

Through : Mr. Ajay Khanna and Mr. Hemant
Uppal, Advocates.

Versus

ORIENTAL BANK OF COMMERCE

..... Respondent

Through : Mr. Aditya Sikka and Mr. Vikalp
Mudgal, Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

CM APPL. No. 25451/2015 (Exemption)

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

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3. Challenge in this writ petition is to the order dated 09.10.2015 passed by the Debts Recovery Tribunal. At the outset, a preliminary objection has been raised by learned counsel for the respondent, who enters appearance on an advance copy, with respect to maintainability of this writ petition on the ground that the petitioner has failed to exhaust the remedy available. Counsel submits that against the order dated 09.10.2015 an appeal would lie to the Debts Recovery Appellate Tribunal.
4. Counsel for the petitioner submits that the Presiding Officer has dismissed his application seeking leave to cross-examine the witnesses of the bank primarily for the reason that in an earlier writ petition filed being W. P. (C) No. 3562/2015 a direction was issued to dispose of the S.A. as expeditiously as possible. Counsel further submits that although the

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petitioner (Guarantor) has not taken a single adjournment, at least four adjournments were sought by the bank. Counsel further submits that bank has failed to place documents on record and thus in the absence of documents, opportunity to cross-examine the witnesses of the bank would be necessary to establish its case in the SA. He further submits that the bank has even failed to place on record the statement of account and in the absence thereof it is necessary for him to cross-examine the witnesses of the bank. The submission made by the learned counsel for the petitioner is disputed by the learned counsel for the respondent. The learned counsel for the respondent has also drawn the attention of the court to an order dated 06.10.2015 passed by the Presiding Officer wherein it has been noted that the respondent bank has filed the statement of account but some entries have not been filed and the same would be filed.

5. We have heard the learned counsel for the parties.
6. It is agreed that the respondent would place on record their complete statement of account on or before 04.11.2015. Needless to say that if the petitioners are still aggrieved, they would seek appropriate remedy as available in accordance with law. Both parties agree that they would seek an adjournment for 04.11.2015 and the Debts Recovery Tribunal will fix a date in the first week of December to enable the petitioner to seek appropriate remedy as available in accordance with law, if so advised. Accordingly, the writ petition is disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

NOVEMBER 02, 2015

SC

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