IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

217 Civil Writ Petition No.27615 of 2015
Date of Decision:05.05.2016

M/s Nytra Belts and others

....petitioners

Versus

Debts Recovery Appellate Tribunal, New Delhi and another

.....respondents

CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI

1.Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.I.P.Singh, Advocate
for the petitioners

Mr.Vikas Singh, Advocate
for the respondents
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S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

The petitioners have challenged an order of the Debts Recovery Appellate Tribunal, Delhi (for short 'DRAT') dated 16.10.2015.

2. The DRAT had by an earlier order dated 10.04.2015 allowed the petitioners' appeal by setting aside the order of the Debts Recovery Tribunal, Chandigarh (for short 'DRT'), dismissing the petitioners' SA. The DRAT thereby, inter alia, set aside the auction sale and directed the bank to inform the petitioners the interest due as on 05.05.2010 when the appellants had deposited the entire amount mentioned in the notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest, Act, 2002 (for short 'SARFAESI Act'). The DRAT directed the petitioner to discharge the interest liability within one month from the date of intimation. The payment was to be made along with simple interest at 12% p.a till the date of payment. It was further ordered that upon being intimated the amount due on account of interest, the petitioner would discharge the liability first before raising any dispute in regard thereto before any forum. The petitioners' appeal was accordingly disposed of.

3. The respondent-Bank by a communication dated 11.07.2015 informed the petitioners that ₹ 41,78,309.66 was due towards interest upto 31.05.2015.

4. The petitioners filed CWP No.19656 of 2015 to challenge the order dated 10.04.2015 passed by the DRAT to the extent that it required them to deposit the amount intimated by the respondents before challenging the same. A Division Bench of this Court by an order and judgement dated 16.09.2015 disposed of the petition. The order insofar as it is relevant reads thus:

> *"It is the grouse of the petitioners that the interest calculated by the respondent bank and intimated to them is not as per the order passed by the Appellate Tribunal and is on the higher side. Learned counsel for the petitioners submits that as per the aforesaid order passed by the Appellate Tribunal, the petitioners cannot dispute the calculation of the amount of interest, without depositing the same.*
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> *After hearing learned counsel for the petitioners, we grant liberty to the petitioners to first approach the Appellate Tribunal to raise their grouse with regard to calculation of interest by the respondent bank and if the*

> *Appellate Tribunal still insists for payment of the amount of interest, as calculated and demanded by the respondent bank vide demand notice dated 11.07.2015, before adjudicating the said grouse, it will be open for the petitioners to approach this court.*
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> *Disposed of with the aforesaid liberty."*

5. The DRAT thereafter took up the matter pursuant to the order of the Division Bench dated 16.09.2015 and passed an order dated 16.10.2015 which is challenged before us. It is necessary to note the following observations of the DRAT about the order of the Division Bench of this Court dated 16.09.2015.

> "*The Hon'ble High Court, perhaps, was not fully informed of this legal position. The Hon'ble High Court, perhaps, was also not informed that the applicant/appellants had not sought any adjudication of interest in the appeal. It is otherwise not feasible to adjudicate the interest on the basis of material on record.*
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> *The plea by the counsel for the applicant/appellants was that the High Court had interfered with the apart of the direction requiring the applicant/appellants to first make payment before seeking adjudication which cannot be noticed from the impugned order. The applicants, therefore, are seeking a relief in the present application which is much beyond the relief sought in the appeal, which may legally not be open to be granted.*
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> *The application is accordingly dismissed."*

6. The learned counsel appearing on behalf of the respondent-Bank has made a statement that the communication dated 11.07.2015 will be withdrawn and fresh calculations shall be

communicated to the petitioners. The statement is accepted.

7. The statement on behalf of the bank redresses the petitioners' grievances at this stage. The matter however does not end there in view of the concluding observations of the DRAT quoted above. We refrain from making any observation regarding the propriety of the observations of the DRAT although we were interested to do so. The DRAT ought to have complied with the order of the Division Bench of this Court.

8. The impugned order of the DRAT dated 16.10.2015 is quashed and set aside. The petition is disposed of by accepting the statement that the communication dated 11.07.2015 stands withdrawn. The order dated 16.09.2015 passed by Division Bench of this Court shall be implemented on its terms and without reference to the impugned order of the DRAT dated 10.04.2015. All the contentions of the petitioners including as to the liability to pay the interest for the delayed period are kept open. The same shall be decided by the DRAT in accordance with the order and judgement dated 16.09.2015.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

May 05, 2016
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