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

+ W.P.(C) 2080/2015

GURMEET EARTHMOVERS COMPANY

& ORS

..... Petitioners

Represented by: Mr.Ajit Kumar, Advocate

versus

M/S ICICI BANK LTD.

..... Respondent

Represented by: Mr.Punit K.Bhalla, Advocate with
Ms.Chetna Bhalla, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **03.02.2016**

1. Issue of limitation was decided against the bank by the Debts Recovery Tribunal vide order dated March 11, 2014, noting that the loan was disbursed on November 27, 2006. Together with interest it was repayable in 35 equated monthly instalments. The first of which had to be paid on February 05, 2007 and was paid. The last date of the instalment was December 05, 2009. Last payment made was December 05, 2008. The Original Application was filed in December 03, 2013.
2. Considering Article 37 of the Limitation Act, 1963 and a decision of the Supreme Court, the Tribunal returned a finding that the Original Application was barred by limitation.
3. In a cryptic order, relying upon a decision dated April 18, 2012 passed in RFA No.684/2006 Satish Kumar vs. Smt.Reena Bhounik by a learned

Single Judge of this Court, the Debts Recovery Appellate Tribunal has held that the view taken by the Debts Recovery Tribunal was incorrect.

4. We have today decided WP(C) No.7098/2015 in which we have lamented the cryptic manner in which the Debts Recovery Appellate Tribunal is deciding appeals. We had remanded the matter to the Debts Recovery Appellate Tribunal for fresh adjudication in said writ petition.

5. Regretfully, instant case must also suffer the same fate.

6. In what manner the decision in Satish Kumar apply to the facts before the Debts Recovery Appellate Tribunal has not been brought out in the impugned order.

7. We have perused the decision of the learned Single Judge in Satish Kumar. It simply concerns a loan taken with a promise to repay the same within five years. It does not concern a loan which is to be returned in equated monthly instalments together with accrued interest.

8. The Debts Recovery Appellate Tribunal has held in favour of the respondents applying Article 37 of the Limitation Act. No reasons have been given by the Debts Recovery Appellate Tribunal as to why the view taken by the Debts Recovery Tribunal is incorrect.

9. We accordingly disposed of the writ petition setting aside the impugned order dated November 19, 2014. Miscellaneous Appeal No.146/2014 is restored for adjudication afresh by the Debts Recovery Appellate Tribunal.

10. The Registrar of the Tribunal shall list the appeal for direction before the Debts Recovery Appellate Tribunal on February 22, 2016.

11. No costs.

12. Copy of this order be sent to the Registrar of the Debts Recovery

Appellate Tribunal by the Registry through Special Messenger within three days.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 03, 2016

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