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

\+ W.P.(C) 2300/2016

REKHA VERMA ..... Petitioner

Represented by: Mr.Ajay Khanna, Advocate with Mr.Hemant Uppal, Advocate

versus

ORIENTAL BANK OF COMMERECE ..... Respondent

Represented by: Mr.S.L.Gupta, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

O R D E R

% **03.05.2016**

1. In terms of the previous order dated March 17, 2016, pleadings have been completed by the parties, but since record of SA No.144/2014 has been received from the DRT, the instant writ petition can be decided.

2. Petitioner's grievance is to the denial by DRT to permit it to cross-examine officers of the bank, which decision has been upheld by DRAT.

3. The petitioner is a guarantor and action taken by the bank under Section 13(2) of SARFAESI Act, 2002 seeks to enforce the mortgage created by the petitioner of her property. The borrower is the husband of the petitioner.

4. Petitioner has availed the remedy under Section 17 of SARFAESI.

5. As per the petitioner the statement of account furnished by the bank reveals outstanding of ₹2.24 crores; the sanction limit being ₹2.25 crores and thus the stand of the petitioner of the account being illegally declared an

NPA. It is also the further case of the petitioner that the initial cash credit limit sanctioned was ₹1.25 crores which was enhanced to ₹2.5 crores. The principal borrower exported goods under letter of credits and in respect of which bills were purchased by the bank at a discount and the sum credited to the account of the borrower and because the bills were dishonoured a debit entry was made and in this manner amount outstanding came to ₹3.08 crores. In respect of this, the stand of the petitioner is that entire liability cannot be fastened against her inasmuch as her guarantee was limited to the cash credit facility granted.

6. Ignoring the history of the litigation concerning ₹75,00,000/- (Rupees Seventy Five Lacs only) required to be deposited by the petitioner as a condition of the stay of the notice under Section 13(2) of SARFAESI, suffice it to note that the petitioner is the wife of the principal borrower who availed the cash credit facility in the name of his sole proprietary firm.

7. Reason why petitioner wants to cross-examine the witnesses of the bank is to illicit such entries in the statement of accounts which relate to the bills of discount purchased by the bank but ultimately dishonoured by the third parties on whom the bills were raised and the corresponding interest relatable thereto.

8. We see no justification for any witness to be cross-examined because the statement of account has been filed by the bank and it shows each and every debit and credit entry, including the ones relating to the bills purchased by the bank. All that the petitioner has to do is to sit with an accountant and re-draw the account by excluding the credit and the debit entries concerning the bills and recalculating the interest on the balance outstanding.

9. We have seen the record of the SA and we find that the petitioner has filed the statement of accounts maintained by the sole proprietary firm of her husband which has been supplied to her obviously by her husband. The same shows that the entries of credit when the bank purchased the bill and a debit entry when the bill was returned unpaid have been shown. By way of example a credit entry dated April 16, 2013 has been shown concerning bill ID : 104840005170113 and a reversal entry of even date.

10. The petitioner is in the knowledge of everything and we simply highlight that the plea that petitioner is not liable for outstanding amount concerning the letters of credit is neither here nor there for the reason if we remove from the statement of accounts the credit and the debit entries concerning the bills, the outstanding amount payable would be as claimed by the bank.

11. The petition is accordingly dismissed.

12. Record of SA No.144/2014 be returned forthwith to the DRT.

13. No costs.

<u>CM No.9918/2016</u>

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MAY 03, 2016
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