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

+ W.P.(C) 5077/2014

JASBIR SINGH

..... Petitioner

Represented by: Mr.Muneesh Malhotra, Advocate
with Mr.Achin Mittal and Mr.Vikram
V.Minhas, Advocates

versus

NIRMALA JAIN & ORS

..... Respondents

Represented by: Mr.D.S.Chauhan, Advocate for R-4

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **28.03.2016**

1. The impugned order dated June 30, 2014 passed in Appeal No.351/2012 is quashed by us with a direction that Appeal No.351/2012 should be decided by the Debts Recovery Appellate Tribunal keeping in view the issue which arises for consideration in the appeal.
2. The impugned order dated June 30, 2014 which has been passed in Appeal No.351/2012 as also Inward No.67/2014 is wholly irrelevant for the purposes of Appeal No.351/2012.
3. Vide impugned order dated June 30, 2014, the learned Debts Recovery Appellate Tribunal has opined that concerning applications filed under Section 17 of SARFAESI Act, 2002, Section 5 of the Limitation Act, 1963 would be applicable.
4. No such issue arose before the Debts Recovery Appellate Tribunal in the appeal concerned for the reason what was challenged before the Debts Recovery Appellate Tribunal in Appeal No.351/2012 was an order dated

August 06, 2012 passed by the Debts Recovery Tribunal holding that the application filed by Nirmal Jain, Sanjay Jain, Sandeep Jain and M/s.SSL (India) Ltd. under Section 17 of SARFAESI Act, 2002 was barred by limitation keeping in view the fact that actionable knowledge could be attributed to said persons at least on August 17, 2007. The order passed by the Debts Recovery Tribunal shows that Nirmal Jain, Sanjay Jain and M/s.SSL (India) Ltd. did not file any application under Section 5 of the Limitation act, 1963 praying for delay in filing the application under Section 17 of SARFAESI Act, 2002 be condoned. Their case was that starting point wherefrom limitation commences is when actionable knowledge is gained by the applicant. As per them they gained actionable knowledge on November 29, 2007. Reckoned therefrom, the application was stated to have been filed within limitation. The Debts Recovery Tribunal held that if not from August 10, 2007, actionable knowledge was attributable at least from August 17, 2007 and thus the Tribunal ought to have been approached on or before October 03, 2007.

5. The learned Debts Recovery Appellate Tribunal shall keep this in mind while deciding Appeal No.351/2012.

6. No costs.

CM No.10132/2014

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MARCH 28, 2016/mamta