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

+ W.P.(C) 4662/2016

M/S SARVOTTAM INDUSTRIES LTD.

..... Petitioner

Represented by: Mr.Sumesh Dhawan, Advocate with
Ms.Vatsala Kak, Advocate

versus

STRESSED ASSETS STABILIZATION
FUND & ORS

..... Respondents

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **25.05.2016**

CM No.19368/2016

Allowed.

W.P.(C) No.4662/2016

1. We are pained at the conduct of the petitioner in trying to hood will the Court repeatedly.
2. Aggrieved by the impugned order dated July 28, 2015 passed by AAIFR holding that in view of action taken by the secured creditors of the appellant under Section 13(2) of SARFAESI Act, 2002, the proceedings under SICA, 1985 abate, the petitioner filed a writ petition urging therein that the State Bank of Bikaner and Jaipur as also Edelweiss Asset Reconstruction Company did not give consent to the Stressed Asset Stabilization Fund which proceed under Section 13(2) of SARFAESI Act,

2002 and thus 3/4th of the secured creditors did not join hands, a plea which was rejected while dismissing W.P.(C) No.8120/2015 because not only does the impugned order record that the said two secured creditors took position before AAIFR that they joined in the action initiated by Stressed Asset Stabilization Fund, but even before this Court they said so.

3. Laying a challenge to the order dated February 17, 2016 the petitioner laid a grievance before the Supreme Court in SLP(C) No.6783/2016 that the argument advanced : of said three secured creditors put together not constituting 75% of the value of the secured debts was not considered by this Court.

4. The said special leave petition was disposed of by the Supreme Court observing that if this was so, this Court ought to have decided the said issue.

5. The petitioner thereupon filed a review petition seeking to urge that 75% of the value of the secured debt was not made up if the said three secured creditors were added up.

6. The review petition was disposed of on May 04, 2016, noting that no such plea was urged in the writ petition and thus a wrong fact was presented before the Supreme Court. But since learned counsel maintained that the position was that the said three secured creditors did not total up to 75% of the value of the secured debt, to do justice to the petitioner, the order dated February 17, 2016 was recalled and simultaneously W.P.(C) No.8120/2015 was permitted to be withdrawn with liberty granted to file a fresh writ petition but restricted only to the ground that the said three secured creditors did not make up 75% of the secured debt.

7. Instant writ petition has now been filed. Drafted cleverly, but paragraph 5, 6 and 7 unequivocally show that the three secured creditors are

the only three secured creditors of the company and together represent 100% of the secured debt. Arguments are sought to be advocated that neither the bank nor Edelweiss Asset Reconstruction Company, gave the consent, a fact which is wrong because the two categorically stated before AAIFR that the support the action initiated by Stressed Asset Stabilization Fund. This was the stand taken by the counsel for the bank and the said company when the earlier writ petition was decided.

8. We dismiss the instant writ petition in limine.

9. No costs.

CM No.19367/2016

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MAY 25, 2016

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