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

+ W.P.(C) 8120/2015

M/S. SARVOTTAM INDUSTRIES LTD.

..... Petitioner

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

versus

STRESSED ASETS STABILIZATION FUND

..... Respondent

Represented by: Mr.Sanjay Bhatt, Advocate with
Mr.Abhishek Anand and Ms.Vidushi
Shubham, Advocates for R-1
Mr.Rajeev Agarwal, Advocate with
Mr.Shashank Sharma, Advocate for
R-3
Mr.Rajiv Kapur, Advocate for SBI

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **17.02.2016**

1. Challenge is to the order dated July 28, 2015 passed by AAIFR holding that the reference to BIFR stands abated on account of M/s.Stressed Assets Stabilization Fund, which is one of the three secured creditors, having filed an application that with the consent of other two secured creditors it has taken action under Section 13(4) of SARFAESI Act, 2002. The impugned order records that M/s.Stressed Assets Stabilization Fund along with M/s.Edelweiss Asset Reconstruction Company and M/s.State Bank of Bikaner & Jaipur constitute 100% of the secured creditors. The impugned order records that the said two companies re-affirmed their

consent before AAIFR. The impugned order records that the only contention urged is that M/s.Stressed Assets Stabilization Fund has not stated in the notice issued to it under SARFAESI Act, 2002 that it has the consent of the other two secured creditors as well.

2. Learned counsel for the appellant urges that AAIFR has proceeded as if it is a case of deemed consent by the other two secured creditors. The argument overlooks that AAIFR has categorically recorded that the other two secured creditors have also given their consent. Learned counsel for the appellant argued that as regards State Bank of Bikaner & Jaipur it gave the consent much after M/s.Stressed Assets Stabilization Fund took recourse to proceedings under SARFAESI, a plea which we reject for the reason the subsequent letter relied upon by the petitioner is a reiteration of the stand taken by State Bank of Bikaner & Jaipur.

3. Learned counsel who appears for State Bank of Bikaner & Jaipur affirms before us that said bank joins M/s.Stressed Assets Stabilization Fund to proceed under SARFAESI.

4. The writ petition is dismissed.

5. No costs.

CM No.16826/2015

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 17, 2016

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