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

\+ W.P.(C) 9636/2015 & CM Appl. 22892/2015

M/S SIKKA PAPERS LTD. & ANR

..... Petitioner

Represented by: Mr. Sanchit Garga, Advocate.

versus

INDIAN OVERSEAS BANK & ORS

..... Respondent

Represented by: Mr. Karan Khanna, Advocate, for respondents 1 to 3.

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

O R D E R

% **01.02.2016**

1. Heard learned counsel for the parties.

2. Issue arises : whether pertaining to a mortgaged property, execution of a decree passed by the Debts Recovery Tribunal in proceedings initiated under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, can only be by the Debts Recovery Tribunal within jurisdiction whereof the mortgaged property is situated.

3. A Full Bench of this Court, in the decision reported as 2012 (119) AIC 631 (Del.H.C.F.B.) *Amish Jain and Anr. Vs. ICICI Bank Ltd***.**, though dealing with the issue of jurisdiction of the Debts Recovery Tribunal

pertaining to SARFAESI Act, in paragraphs 12 and 13 observed as under:-

> *"12. We are however of the opinion that the Division Bench fell in error in assuming the debt/money recovery proceedings to be initiated by the Bank under the D.R.T. Act as equivalent to legal proceedings subject whereof is a mortgaged property, within the meaning of section 16 of the CPC. The proceedings referred to in section 19(1) of the D.R.T. Act are merely proceedings for recovery of debt and not for enforcement of mortgage. Even prior to coming into force of the D.R.T.Act, the Bank, even if a mortgagee, was not mandatorily required to enforce the mortgage and which under section 16 of the CPC could be done only within the territorial jurisdiction of the Court where the mortgaged property was situated and the Bank was free to institute a suit, only for recovery of money and territorial jurisdiction whereof was governed by section 20 of the CPC, containing the same principles as in section 19(1) of the D.R.T.Act. We are therefore unable to accept that any departure qua territorial jurisdiction has been made in the D.R.T. Act, as has been observed by the Division Bench in Indira Devi.*
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> *13. The proceedings in the D.R.T. for recovery of debt, culminate in a 'Certificate of Recovery' which is equivalent to a Money Decree of a Civil Court. Just like a Money Decree of a Civil Court, can be transferred for execution to another Court where the assets of the Judgment-Debtor from which recovery is to be effected are situated, under section 19(23) of the D.R.T. Act also, where the property from which recoveries are to be effected, is situated outside the local limits of the jurisdiction of the D.R.T. which has issued the Certificate, the D.R.T. is required to send a copy of the Certificate for execution to the D.R.T. within whose jurisdiction the property is situated. Section 25 provides the modes of recovery of the debts specified in the Certificate, including by attachment and sale of property. The*

recovery proceedings under the D.R.T. Act are thus equivalent to a suit for recovery of money before a Civil Court and cannot be said to be for enforcement of mortgage. Thus it cannot be said that the D.R.T. Act has made any departure from section 16 of the CPC."

4. The order dated December 10, 2014 passed by the Debts Recovery Tribunal-II, Delhi, has noted that the writ petitioner cited the Full Bench judgment of this court, but the Tribunal at Delhi has chosen to abide by the law declared to the contrary by a Division Bench of the Bombay High Court as also the Gujarat High Court.

5. The Appellate order dated June 11, 2015, has also noted said fact, but has proceeded to uphold the impugned order passed by the Debts Recovery Tribunal.

6. Suffice it to state that a Tribunal sitting within the territorial jurisdiction of a particular High Court is bound by the law declared by that High Court and cannot apply the law declared to the contrary by some other High Court.

7. The Debts Recovery Tribunal-II at Delhi, as also Debts Recovery Appellate Tribunal at Delhi would be bound by the law declared by the Full Bench of this Court.

8. We therefore dispose of the writ petition setting aside the impugned order/judgment dated December 10, 2014 and June 11, 2015, passed by the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal respectively. We declare that the decree in favour of the respondent bank

shall for purposes of execution be transferred to the Debts Recovery Tribunal within jurisdiction whereof the mortgaged properties, both in District Shamli in the State of Uttar Pradesh are situated.

9. No costs.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 01, 2016
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