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

\+ W.P.(C) 11359/2015

ANJU KEJRIWAL ..... Petitioner

Represented by: Mr.Sanjeev Bhandari, Advocate

versus

AUTHORISED OFFICER, INDIAN OVERSEAS BANK & ORS ..... Respondents

Represented by: Mr.Karan Khanna, Advocate

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

O R D E R

% **03.03.2016**

1. Having heard learned counsel for the parties, the only fact which we need to note is that the mortgaged property is admittedly at New Delhi bearing Municipal No.B-2/232, Paschim Vihar, New Delhi. The credit availed of by the principal debtor was at the branch of the respondent bank within the territorial jurisdiction of the Debts Recovery Tribunal in Chandigarh. SA No.30/2012 filed by the petitioner is remedy availed of by the petitioner under Section 17 of the SARFAESI Act, 2002 concerning action initiated by the bank under Section 13 of the said Act pertaining to petitioner's property mortgaged but situated in Delhi.

2. Under the belief that since the credit availed of by the principal

borrower i.e. principal creditor was at the branch of the respondent bank within the territorial jurisdiction of the Debts Recovery Tribunal, Chandigarh, proceedings were initiated by the petitioner under Section 17 of the SARFAESI Act, 2002 at Debts Recovery Tribunal, Chandigarh. It was registered as SA No.30/2012.

3. The bank took an objection that in view of the Full Bench decision of this Court reported as 2002 (132) DRJ 69 *Amish Jain & Ors. vs. ICICI Bank Ltd.* territorial jurisdiction would be where the mortgaged property was situated i.e. Debts Recovery Tribunal, Chandigarh.

4. Instructed by the defence taken by the bank that the Debts Recovery Tribunal, Chandigarh lacked territorial jurisdiction the petitioner moved a miscellaneous application before the Debts Recovery Appellate Tribunal praying that power of the Appellate Tribunal be exercised to transfer SA No.30/2012 from Chandigarh to Delhi.

5. The same has been dismissed vide impugned order dated November 19, 2015 holding that the application for transfer was aimed at frustrating the plea of jurisdiction raised by the bank.

6. We surprise at the reasoning. The objection of the bank was to Debts Recovery Tribunal, Chandigarh was not having any territorial jurisdiction on the plea that territorial jurisdiction would be of Debts Recovery Tribunal, Delhi.

7. Reason why petitioner filed the application under Section 17 of the SARFAESI Act, 2002 has already been indicated by us hereinabove.

8. Instructed by response of the bank when the petitioner sought

corrective action, it would be a strained reasoning to hold that the application for transfer is aimed at frustrating the plea of jurisdiction raised by the bank.

9. It is trite that if a Fora does not have a territorial jurisdiction the original proceedings initiated before the Fora have to be returned (and not dismissed) for being filed before the Fora having territorial jurisdiction. Therefore, SA No.30/2012 registered in Chandigarh would in any case have to be transferred to Delhi.

10. We dispose of the petition setting aside the impugned order dated November 19, 2015. Misc.Application No.960/2015 in SA No.30/2012 (Chandigarh) is allowed. As a consequence, SA No.30/2012 (Debts Recovery Tribunal-I, Chandigarh) be transferred to Debts Recovery Tribunal-I, Delhi. The reason being that Paschim Vihar would fall within the territorial jurisdiction of DRT-I, Delhi.

11. No costs.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MARCH 03, 2016
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