

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 217 of 2017**

Smt. Saroj Verma W/o Shri Arvind Kumar Verma, aged about 41 years R/o House No. 230, Vivekanand Nagar, Mopka, Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. M/s Sukoon Tiles and Sanitorys Prop. Shri Rajkumar Choubey, S/o Shri S. N. Choubey, R/o 8, Chandrakanta Colony, behind Punjab National Bank, Seepat Road, Lingiyadih, Bilaspur, District Bilaspur Chhattisgarh.
2. Oriental Bank of Commerce, through authorized officer / Chief Manager, B. D. A. Branch, Sai Parisar, Shrikant Verma Marg, Vyapar Vihar Bilaspur, District Bilaspur, Chhattisgarh.

--- Respondents

For Appellant	:	Mr. H.B. Agrawal, Senior Advocate along with Ms. Prabha Sharma, Advocate
For Respondent No.1	:	Mr. Kishore Bhaduri, Advocate
For Respondent No.2	:	Mr. N. K. Vyas, Assistant Solicitor General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Thottathil B. Radhakrishnan, Chief Justice****23.06.2017**

We have heard the learned Counsel for the appellant who is the auction purchaser in a sale conducted by the recovery officer in terms of the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, for short, 'RDB Act'.

2. We can see the heartburn of the appellant. Driven from pillar to post and also driven to the wall in the matter of getting final disposal of the matter

pending in execution proceedings of a recovery certificate under the RDB Act, the appellant auction purchaser is unable to get a final decision. This situation is alarming.

3. It appears that the Tribunal where proceedings involving the appellant as well as some sister Tribunals are vacant. A Tribunal which holds charge of the sister Tribunal cannot be compelled to be over loaded with work which it cannot carry. It should be a matter of prudent governance to ensure that Tribunals are manned. We say this because the Debt Recovery Tribunal and Debt Recovery Appellate Tribunal have been constituted under the provisions of RDB Act after ousting the civil courts' jurisdiction to deal with such matters. When the jurisdiction of the civil courts is ousted and simultaneously Tribunals are created, it is part of the reasonable expectation of every citizen that an adjudication which could have been otherwise carried before the civil court can be carried forward through the Tribunal which is so constituted. If the aim of constituting DRT and DRAT in terms of the RDB Act was to strengthen the debt recovery system and to do away with the delay and mounting arrears of such cases, it necessarily carries with it the requirement that vacancies in the Tribunals and Appellate Tribunals are duly filled, even by ensuring preparedness to handle anticipated vacancies from time to time. We make this observation fervently hoping that the Union of India will take necessary steps to do the needful to augment the different Tribunals which are lying vacant. The learned Assistant Solicitor General is requested to communicate a copy of this judgment to the appropriate authority in the Central Government. Issue a copy of this judgment to ASG also.

4. The fact of the matter is that whatever this Court had done earlier was only a stopgap arrangement to handle a situation where the DRAT was not available to hear the parties. But all that we can observe is that efforts have to be taken

to prosecute the matter before the Appellate Tribunal where the matter is listed today. Even if the appellant needs any further orders touching the review petition that is pending before the learned Single Bench, it is up to the appellant to move that Bench for further orders. That does not open up room for a writ appeal. Therefore, we dismiss the writ appeal preserving the right of the appellant to seek further orders from the Single Bench and also without prejudice to the matter being prosecuted before the DRAT in accordance with law.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge