

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J.UMA DEVI

WRIT PETITION Nos.33580, 33597, 33624, 33672 & 33696 of 2016

COMMON ORDER: (per SK,J)

The grievance in this batch of cases is with regard to the orders passed by the Debts Recovery Appellate Tribunal, Kolkata, in restoring the condone delay applications filed by the Union Bank of India and thereafter condoning the delay in presentation of such appeals.

The specific case of the petitioners is that counters had been filed before the Appellate Tribunal contesting the subject applications and bringing it to the notice of the Appellate Tribunal that one of the parties had died on 07.05.2014 long before the presentation of the appeals with delay and before the numbering of the condone delay petitions filed therein.

Perusal of the orders under challenge reflects that the Appellate Tribunal did not take note of this aspect of the matter at all and straight away restored the condone delay applications filed by the bank, which were earlier dismissed for default, and then proceeded to condone the delay in the presentation of the appeals. Trite to state, no order can be passed by a judicial authority in favour of or against a dead person and such an order would normally be a nullity in the eye of law (N.JAYARAM REDDI V. REVENUE DIVISIONAL OFFICER AND LAND ACQUISITION OFFICER¹).

The Appellate Tribunal therefore necessarily had to deal with this aspect of the matter and all the more so, as the first respondent bank would contend that the estate of the deceased party was represented before the Appellate Tribunal and that the question of any order being

¹ (1979) 3 SCC 578 = AIR 1979 SC 1393

passed against the deceased party did not arise. These are all aspects which the Appellate Tribunal ought to have looked into and this Court does not propose to step into the shoes of the Appellate Tribunal and adjudicate upon such issues.

The orders under challenge are accordingly set aside and the matter is remitted to the Debts Recovery Appellate Tribunal, Kolkata, for consideration of the miscellaneous applications filed by the Union Bank of India on their own merits and in accordance with law keeping in mind the observations made hereinabove.

The writ petitions are allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand disposed of in the light of this final order. No order as to costs.



SANJAY KUMAR,J

J.UMA DEVI,J

Date:06.11.2017

GJ