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

+ **CS(OS) 221/2016 & IA No.8384/2016 (u/O VII R-11 (a)&(d) CPC)**

JAH DEVELOPERS PRIVATE LIMITED & ORS Plaintiffs

Through: **Mr. Inderbir Singh Alag, Sr. Adv.**
with Mr. J.S. Lamba, Mr. R.S. Bisht
and Mr. Rajesh Kumar, Advs.

Versus

ARUNDHATI BHATTACHARYA & ORS Defendants

Through: **Mr. Jitendra Kumar, Adv. with Mr.**
Amrik Ram, Chief Manager of
defendants.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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26.04.2017

1. The three plaintiffs, namely M/s Jah Developers Private Limited, Shri R.C. Panwar and Smt. Jaswanti Panwar, have sued Smt. Arundhati Bhattacharya, being the Chairman of State Bank of India (SBI), Shri P. Pradeep Kumar, Shri B. Sriram, Shri Praveen Kumar Malhotra, Shri C.V. Balaji, Shri Rajeev Krishnan, Shri V.S. Ohri, Shri K.B. Sharma, Shri Vijay Kishore Saxena and Shri Viswas Dhiman, being the officials of SBI, for recovery of Rs.10 crores towards damages/compensation for loss of reputation and image of the plaintiffs by the publication in the newspaper 'The Hindustan Times' Delhi Edition of 25th April, 2015 of the following:

CS(OS) 221/2016

Page 1 of 4

*“State Bank of India
Stressed Assets Management Branch
6th Floor, Mohan Singh Place,
Connaught Place, New Delhi
CAUTION NOTICE FOR PUBLIC
FOR PROPERTY/ASSETS CHARGED*

*Public in general is hereby notified that the under noted properties and assets, there at, are mortgaged with **State Bank of India** in the account of **M/s JAH Developers Pvt. Ltd.** against various credit facilities granted to the company. The Original Application for recovering Bank's dues amounting to Rs.17.29 crores as on 13.06.2013 is pending before DRT-II, Delhi.*

The general public/Banks/Financial Institutions/any other party interested in the properties/assets are hereby cautioned not to deal with the properties in any manner. Anybody dealing with the properties will be doing so at his/her own risk and responsibility.

Description of properties:

1. “Hotel Jaisal Villas”, Plot No.H-14, 15 and 16, Barmer Road, Jaisalmer (Rajasthan) measuring 45000 square feet in the name of Smt. Jaswanti Panwar W/o Shri R.C. Panwar.

*2. Commercial Property at No.118, Adjacent to Main Road, measuring 333.33 square yards out of total area of about 1000 sq. yards out of **Khasara No.875/518, Village Shahpur Jat, New Delhi -110 049** in the name of Mr. R.C. Panwar S/O Shri Khiman Singh Panwar.*

Date: 10.04.2015

*Dy. General Manager”
[Emphasis in original]
Page 2 of 4*

2. The suit, unaccompanied with any application for interim relief, came up before the Joint Registrar on 9th May, 2016 when the same was entertained and summons thereof were ordered to be issued.
3. The defendants filed IA No.8384/2016 under Order VII Rule 11(a) & (d) of the Code of Civil Procedure, 1908 (CPC) seeking rejection of the plaint on the ground of jurisdiction of this Court to entertain the suit being barred by the provisions of Section 34 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (DRT Act).
4. The said application came up before this Court first on 19th July, 2016 when the following order was passed:

“IA No.8384/2016 (of the defendant under Order 7 Rule 11(a) & (d) CPC).

3. *None appears for the plaintiffs inspite of advance copy stated to have been given.*
4. *The plaintiffs have instituted the suit for recovery of Rs.10 crores towards compensation for damages (sic for defamation).*
5. *The defendants are the officials of the State Bank of India (SBI) which has published a caution notice in the newspapers informing the public at large of the properties of the plaintiffs having been mortgaged with the SBI and of the SBI having instituted proceedings before the Debts Recovery Tribunal (DRT) against the plaintiffs for recovery of its dues.*
6. *The plaintiffs claim defamation therefrom.*
7. *Prima facie it appears that the suit is not maintainable.*
8. *Summons of the suit were ordered to be issued by the learned Joint Registrar.*
9. *Issue notice of the application to the plaintiffs through counsel, returnable before this Court on 19th August, 2016 on which date the suit be listed before this Bench instead of before the Joint Registrar.”*

5. Since then pleadings have been completed in the application.
6. I have however at the outset enquired from the senior counsel for the plaintiffs the response to the query recorded in the order dated 19th July, 2016.

RAJIV SAHAI ENDLAW, J.

7. After full hearing, the senior counsel for the plaintiffs seeks to withdraw the suit with liberty to approach the DRT.
8. The counsel for the defendants states that the plaintiffs are not entitled to approach the DRT also.
9. The plaintiffs, if are entitled to approach the DRT, shall be entitled to do so subject to payment of costs of Rs.1 lac to the counsel for the defendants.
10. Dismissed as withdrawn with liberty aforesaid.
11. The plaintiffs having withdrawn the suit, the senior counsel for the plaintiffs seeks refund of court fees.
12. Out of court fees of Rs.10,00,250/- lacs paid, a certificate entitling the plaintiff to refund of Rs.9 lacs be issued and be handed over to the counsel for the plaintiffs.

RAJIV SAHAI ENDLAW, J.

APRIL 26, 2017

bs/gsr ..

CS(OS) 221/2016

Page 4 of 4