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

+ C.R.P. 137/2017, CM No.21775/2017

BANK OF MAHARASTHRA Petitioner
Through: Mr. Abhindra Maheshwari, Adv.

versus

KRISHNA SAINI & ORS Respondents
Through: Mr. Vikas Tomar, Adv. for R1

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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13.12.2017

The petitioner was impleaded in the Civil Suit instituted by the first respondent (i.e. the plaintiff before the Trial Court) as second defendant, the prayer being for reliefs in the nature of declaration and permanent injunction. While it is clear that the petitioner did not file the written statement within the statutory period, it submitted an application seeking rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908 referring to the bar under Section 34 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. By the impugned order dated 20th March, 2017, the Senior Civil Judge first decided to strike off the defence of the petitioner observing that the time for submitting the written statement had lapsed and thereafter declined to entertain the application seeking rejection of the plaint.

To say the least, this was most inappropriate way of dealing

with the application. The impugned order does not disclose any reasons why the objections raised in the application were lacking in merit. There is no bar to such application being entertained even at the instance of a defendant whose defence otherwise has been struck off for the simple reason that the issue of jurisdiction can be raised at any stage.

The impugned order is set aside. The matter arising out of the aforementioned application is remitted to the Senior Civil Judge (South-East), Saket Courts, New Delhi for appropriate consideration and determination.

The petition is disposed of.

R.K.GAUBA, J

DECEMBER 13, 2017
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