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

+ **W.P.(C) 5713/2017**

DESHPAL SINGH

..... Petitioner

Through

Mr. Sanat Kumar, Sr. Advocate with
Mr. Gaurav Mahajan and Mr. Lokesh
Chopra, Advocates with respondent in
person.

versus

PUNJAB & SIND BANK

..... Respondent

Through

Mr. Rajinder Wali, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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24.07.2017

1. The petitioner is aggrieved by an order dated 15th March, 2017 passed by the learned DRAT in IA No. 251/2015 filed in Appeal No. 86/2016 for seeking waiver of the condition of pre-deposit. He is also aggrieved by an order dated 17th May, 2017 passed by the learned DRAT dismissing his application for seeking review of the order dated 15th March, 2017.

2. Mr. Sanat Kumar, learned Senior Counsel appearing for the petitioner submits that this is the second round of litigation before this Court. Prior here to, aggrieved by an order dated 23rd April, 2015 passed by learned DRAT in two appeals bearing Appeals No. 161 & 162/2015 filed by the petitioner, laying a challenge to the orders passed by the DRT on 3rd March, 2015 and 6th June, 2007 which were dismissed, the petitioner had filed WP(C) No. 10663/2015 in the High

Court.

3. Vide order dated 13th January, 2016 passed by the Division Bench, the said petition was allowed and the order dated 23rd April, 2015 passed by the learned DRAT and Appeal No. 61/2014 was restored along with the accompanying interim applications for fresh adjudication by the DRAT.

4. Thereafter, the appellant had appeared before the DRAT on 15th March, 2017. Vide order dated 15th March, 2017, the application of the appellant for seeking entertainment of the appeal against a Recovery Certificate issued by the DRT holding him liable to pay a sum of Rs. 63,31,611/- with interest @17.5% from the date of filing of the OA, was considered and he was directed to deposit 50% of the debt determined by the DRT under the Recovery Certificate to which challenge had been laid in the appeal. The said application was adjourned to 17th April, 2017, to await compliance of the condition of pre-deposit by the appellant. The aforesaid amount was however not deposited by the petitioner. Instead, he filed a review application before the DRAT which was dismissed vide order dated 17th May, 2017. Aggrieved by the aforesaid orders, the petitioner has approached this Court.

5. Mr. Sanat Kumar, learned Senior Counsel appearing for the petitioner states that in her lifetime, the mother of the petitioner, Smt. Veran Wali had taken a plea that the documents on which the respondents had relied upon to claim that she was a guarantor for a loan of Rs. 10 lakhs extended to the Sh. Tejwant Singh and his wife in their personal capacity in the year 1986, and she had mortgaged an

immovable property with the Bank for the said purpose, were forged. He states that the petitioner's mother had expired in the year 2001 and as per the will executed by her, she had bequeathed all her assets, both movable and immovable, exclusively in favour of the petitioner. The immovable property in question was valued by the Bank at Rs. 5 crores (approx), a couple of years ago.

6. Mr. Wali, learned counsel for the respondent/Bank intervenes to state that the bank did try to auction the said property twice but has not found a suitable bidder. The property is stated to be in the physical possession of the petitioner.

7. It is submitted on behalf of the petitioner that he had deposited a sum of Rs. 52,15,000/- in favour of the Registrar, DRAT, in terms of the order dated 20th January, 2017 passed by the DRAT (Annexure P-15) and he is willing to deposit a sum of Rs. 2 crores over and above the amount already deposited to show his bonafides, which will come to 50% of the figure at which the property has been valued by the bank.

8. Learned counsel for the respondent/Bank states that the Recovery Certificate issued by the DRT is for a sum of Rs. 63,31,611/- along with interest @ 17.5% with quarterly rest reckoned from the date of filing of the suit, which has by now mounted to over Rs.52 crores. He states if that the Court is inclined to pass an order granting permission to the petitioner to deposit a sum of Rs. 2 crores over and above the amount already deposited, then it be clarified that this order would not be treated as a precedent in any other case.

9. Learned counsel for the petitioner states on instructions from

his client, who is present in this Court that he would be in a position to deposit Rs. 2 crores with the DRAT in three weeks.

10. As a last opportunity the petitioner is granted three weeks time to deposit a sum of Rs.2 crores with the Registrar, DRAT, Delhi. If he does so, then the subject appeal i.e. Appeal Nos.85-86/2016 shall stand restored along with the interim applications from being placed the learned DRAT for being heard and decided as per law.

11. The present petition is disposed of.

12. We may clarify that this order shall not be treated as a precedent in any other case as the same has been passed in the peculiar facts and circumstances of this case.

HIMA KOHLI, J

DEEPA SHARMA, J

JULY 24, 2017

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