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

+ **W.P.(C) 6763/2017 and CMs 28188-89/2017**

M/S DECO INDUSTRIES (INDIA) Petitioner
Through : Mr. Sangam Patnaik, with
Mr. Rajiv Gupta, Ms. Swyansidha and
Mr. Rahul Singhal Advocates

versus

KARNATAKA BANK LTD & ORS Respondents
Through : Ms. Usha Singh, Advocate for R-4
with Mr. Manoj Gupta, from Office of JMFARC.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE A.K. CHAWLA

ORDER

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09.08.2017

1. The present petition has been filed by the petitioner praying inter alia, for the following reliefs :

“(a) set aside order dated 07.04.2017 passed by DRT III, Chandigarh in SA No.265/2017 (old No.O.A. No.180/2013);

(b) set aside operation of impugned order dated 20.03.2017 passed by the Ld. DRAT, Delhi in Misc.Appeal No.60/2016 titled Vikram Bakshi vs. HDFC passed by DRAT.”

2. At the outset, we have requested Mr. Patnaik, learned counsel for the petitioner to address arguments on the maintainability of the present petition in this Court when a statutory remedy of filing an appeal before the learned DRAT is available under the Securitisation and Reconstruction of Financial

Assets and Enforcement of Security Interest Act, 2002.

3. Learned counsel for the petitioner concedes that till date, the petitioner has not approached the DRAT against the impugned order dated 7.4.2017 passed by the DRT-III, Chandigarh and the explanation offered for not doing so is that relying on the decision of the DRAT dated 20.3.2017, passed in the case of Vikram Bakshi vs. HDFC & Ors., the DRT has declined to entertain the petitioner's application and therefore, it cannot expect that any relief will be granted to it by the appellate forum, i.e., the DRAT.

4. Pertinently, the decision of the DRAT in the case of Vikram Bakshi (supra) has been assailed by the appellant in the said case by filing a writ petition in the High Court, which is pending adjudication. However, that alone cannot be a ground for the petitioner to evade filing an appeal before the DRAT or approach this Court directly in writ proceedings praying *inter alia* for setting aside the order of the DRAT in the captioned case, where it is not even a party.

5. We may further note that the impugned order has been passed by the DRT-III, Chandigarh and if the petitioner is advised that it has a remedy of filing a writ petition, then it ought to have approached the High Court of Punjab and Haryana for appropriate relief.

6. Learned counsel for the petitioner seeks to elaborate that three separate petitions were filed by the petitioner, two before the DRT at Delhi and one before the DRT at Chandigarh. By a consent order dated 8.3.2017 passed by the DRAT in Misc. Appeal No.184/2016, all the three matters were directed to be tried by one DRT at Chandigarh. Though a copy of the order dated 8.3.2017 has not been filed, the same has been handed over by

learned counsel for the petitioner for our perusal and is taken on record.

7. On examining the order dated 08.07.2015 it transpires that it was the petitioner who had moved an application before the DRAT, seeking common trial by one DRT of three different SAs filed by it and pending before three different DRTs, in respect of the same loan account that had been declared as an NPA by the respondent/Bank in which, two different properties were mortgaged to secure the repayment of the loan, one situated in Delhi and the other in Gurgaon, Haryana. In view of the prayer for transfer & clubbing made by the petitioner before the DRAT, learned counsel for the respondent had also submitted that if all the three SAs filed by the petitioner were to be tried by one DRT, then the OA filed by the Bank and pending before the DRT-II, Delhi be also transferred to the same DRT so that all the cases could be tried together. After considering the submissions made by the counsels for the parties, the DRAT had allowed petitioner's applications for seeking transfer and clubbing of all the three SAs and further, directed that the respondent/Bank's OA No.516/2015 pending before DRT-II, Delhi be transferred to DRT-III, Chandigarh for trial.

8. Given the above background, it cannot be argued now that if the petitioner has a grievance against an order passed by DRT-III, Chandigarh in respect of one of the SAs that was initially filed in Delhi, then it still retains the option of approaching this Court for relief. Once the petitioner has exercised its option of seeking common trial of all the three SAs before the DRT, Chandigarh, then any order passed by the said forum, in any one of the SAs ought to be assailed only before the competent court that is vested with territorial jurisdiction to entertain the said petition.

9. In the above facts and circumstances, we are not inclined to entertain the present petition only because the impugned order has been passed by the DRT-III, Chandigarh in respect of a petition that was initially filed by the petitioner in Delhi, when it was at its behest that all the three petitions filed by it, were transferred by the learned DRAT to the DRT-III, Chandigarh, for being tried together along with OA No.516/15, filed by the respondent/Bank. We are also of the opinion that the petitioner cannot be permitted to file the present petition and lay a challenge to a decision of the DRAT rendered in the case of Vikram Bakshi (supra), when admittedly, it is not a party to the said proceedings. If it is the petitioner's case that it need not approach the DRAT at all, though the Statute provides for the remedy of an appeal before the said Forum, and instead, it is entitled to approach the writ court directly against an order passed by the DRT, Chandigarh, even so, it shall have to approach the court vested with the territorial jurisdiction to entertain such a petition.

10. For the aforesaid reasons, we decline to entertain the present petition which is dismissed as not maintainable along with the pending applications. However, leave is granted to the petitioner to seek legal recourse against the impugned order before the appropriate forum.

HIMA KOHLI, J

A.K. CHAWLA, J

AUGUST 09, 2017
sk/bh/mk/ap