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

+ **W.P.(C) 11912/2015, CM APPL. 31636/2015**

SANJIV TALWAR

..... Petitioner

Through: Mr Rajat Gava and Mr Rajan Narain,
Advs.

versus

BANK OF BARODA AND ORS

..... Respondents

Through: Mr R.P. Agrawal and Ms Priyadarshini
Verma and Mr Sahil Garg, Advs.
Mr Rajiv Bahl, Adv for Official Liquidator

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **28.07.2017**

1. The petitioner has filed the present petition praying *inter alia* for quashing the order dated 28.05.2015 passed by the learned Debt Recovery Appellate Tribunal (DRAT), Delhi in Appeal No.308/2013, titled "*Navnit Talwar vs. Bank of Baroda and Others*". The petitioner also seeks quashing of the proceedings pending before the learned Recovery Officer, Debt Recovery Tribunal-II, Delhi in respect of Recovery Certificate No.55/2011, arising out of O.A. No.54/2002, titled "*Bank of Baroda vs. Reinz Talbros Ltd. & Ors*".

2. Learned counsel for the respondent/Bank raises a preliminary objection on the maintainability of the present petition on the ground that the petitioner was not an appellant before the learned DRAT for him to file this petition. He states that the petitioner was arrayed by Shri Navnit Talwar

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(respondent No.3 herein) as respondent No.3 in the said proceedings and, therefore, he does not have a *locus standi* to present the present petition. He further states that the respondent No.3 herein has filed a separate petition, challenging the order dated 28.05.2015 passed by the DRAT on his appeal, registered as W.P.(C) No. 8049/2015 which is listed in today's cause list as item No.9.

3. Learned counsel for the respondent further states that the judgment dated 15.04.2011 passed by the learned DRT-II has not been assailed by the petitioner though he has a statutory remedy of preferring an appeal and under the garb of the present petition, he cannot be permitted to bypass the said forum and approach this Court directly, that too in respect of proceedings pending before the learned Recovery Officer when he did not take any steps to challenge the judgment of the DRT.

4. At the request of the learned counsel for the petitioner, the present petition was passed over on the first call as he had stated that Ms Mohini Narain, Advocate was held up before another Bench.

5. On passover, learned counsel for the petitioner states that Ms.Mohini Narain is unavailable.

6. We may note that learned counsel who appears before us today had also appeared on 09.05.2017 and stated that he shall be filing his Power of Attorney, which has been duly filed. Instead of addressing arguments on the aspect of maintainability of the present petition, as raised by the other side, learned counsel for the petitioner seeks to argue the petition on merits which is not permissible till he overcomes the objection taken by the other side. Quite clearly, having failed to file an appeal before the DRAT against the

judgment dated 15.04.2011 passed by the DRT-II, Delhi, simply because the petitioner was arrayed by his brother, Shri Navnit Talwar as a respondent in the said proceedings would not give him an independent right to challenge the said decision in these proceedings.

7. In the given facts and circumstances, the petition is dismissed on the ground that the petitioner does not have the *locus standi* to assail the order dated 28.05.2015 passed by the learned DRAT on the proceedings before Recovery Officer, having failed to seek legal recourse before appropriate forum.

8. The petition is accordingly dismissed along with the pending applications.

HIMA KOHLI, J

DEEPA SHARMA, J

JULY 28, 2017/bg