HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.720 of 2015 (O&M)
Date of Decision: 19.02.2018

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M/s Ajay Trading Company & Anr. ...Petitioners

VS.

Oriental Bank of Commerce & Ors. ... Respondents

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Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Shekher Dhawan

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Present: Mr. Nitin Jain, Advocate for the petitioners

Mr. RPS Ahluwalia, Advocate for the Bank

Mr. Umang K Khosla, Advocate for
Mr. Arun Rajotia, Advocate for auction purchaser

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SURYA KANT J. (Oral)

(1) The petitioners are borrowers who had availed loan facilities from respondent-No.1-Bank. Their loan account was eventually classified as NPA and measures under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 were taken. The aggrieved borrowers filed SA before DRT, Chandigarh on 12.10.2011 which was allowed on 23.08.2013. The bank challenged the said order before DRAT. The Appellate Tribunal vide the impugned order dated 12.11.2014 has remanded the case to the DRT, Chandigarh to decide the question of limitation and determine as to whether the SA was within limitation to challenge the notices issued under Section 13(2) and 13(4) of the Act. At the same time, the Appellate Tribunal has made certain observations on merits though with a caveat that the DRT shall not be influenced by those observations. The aggrieved borrowers are before us challenging the order of the Appellate Tribunal.

(2) We have heard learned counsel for the parties at a considerable length.

(3) During the course of hearing, counsel for the parties are *ad idem* that the Ld.Appellate Tribunal either ought to have simply remanded the case to DRT on the question of limitation without making any direct or indirect observations on merits or it ought to have decided all the questions on merits.

(4) We find force in the submission made by counsel for both the parties. Consequently, without expressing any views on merit, the writ petition is allowed in part; the impugned order dated 12.11.2014 passed by Ld.DRAT, Delhi is set aside and the matter is remitted to the Ld.Appellate Tribunal to decide all the issues on merits. The petitioners shall also be at liberty to raise the alternative plea that the 'secured assets' deserve to be re-auctioned keeping in view the changed circumstances. Similarly, the Bank shall also be at liberty to raise all its pleas as are sought to be agitated before us.

(5) The parties are directed to appear before the Ld.Appellate Tribunal on 05.03.2018.

(6) Ordered accordingly.

(Surya Kant)
Judge

19.02.2018
vishal shonkar

(Shekher Dhawan)
Judge

1. Whether speaking/reasoned? ***Yes***
2. Whether reportable? ***No***