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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 01.05.2018

W.P.(C) 2825/2018, CM APPL.11381/2018, CM APPL.11382/2018 & CM APPL. 11383/2018

BILT GRAPHIC PAPER PRODUCTS LTD ..... Petitioner

versus

DBS BANK LTD & ANR ..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Hri Priya Padmanabahn, Mr. Surya Prakash and Mr. Shrutanjay Bhardwaj, Advocates

For the Respondents : Mr. Akhil Bhardwaj, Advocate for R-1
Mr. Sugam Seth, Advocate for R-2

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MS. JUSTICE DEEPA SHARMA

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The present writ petition has been instituted on behalf of the petitioner assails an order dated 22.01.2018 passed by the learned Debt

Recovery Tribunal-II, Delhi (for short 'DRT') in IA Nos.988/2017 and 1010/2017 in O.A. No. 278/2017, whereby the petitioner's application seeking a declaration that the said O.A. instituted on behalf of the lender bank was not maintainable, was rejected.

2. It is an admitted position that any order rendered by the DRT under Section 17 of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as the 'said Act'), in terms of sub-section 2 thereof, can be assailed before the Appellate Tribunal constituted under the said Act. It is also trite to state that the Hon'ble Supreme Court of India in a catena of decisions has expressed serious concern that despite repeated pronouncements, High Courts continue to ignore the availability of statutory remedies under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short 'DRT Act') and the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for short 'SARFAESI Act'); and exercise jurisdiction under Article 226 of the Constitution of India for rendering orders which have a serious and adverse impact on the rights of Banks and other financial institutions in recovering their dues.

3. It is further trite to observe that a remedy of appeal is statutorily available before the Debt Recovery Appellate Tribunal (for short 'DRAT') under Section 18 of the said Act against an order such as the one impugned herein, passed under Section 17 thereof. In other words, if an alternative statutory remedy is available, High Courts should normally proceed with caution and circumspection, *a fortiori*, in view of the reasons that loans by financial institutions are granted from public money generated at the tax payers' expense.

4. On a specific query from this Court, it is fairly conceded on behalf of the petitioner, that the relief prayed for in the present petition are within the scope and ambit of the relief that may be granted by the DRAT in appeal in relation to the impugned order. However, it is urged that subsequent events require intervention by this Court and impleadment of the Reserve Bank of India.

5. We are not impressed by the submission made on behalf of the petitioner, since neither were the Reserve Bank of India a party before the learned DRT nor have they been impleaded as a party in the present petition; nor can there be any manner of doubt that the prayers sought for in the present petition, can be the subject matter of only a statutory appeal before the learned DRAT, in terms of the provisions of the said Act.

6. The writ petition is accordingly dismissed, whilst reserving liberty to the petitioner to approach the learned DRAT, in accordance with law. The pending applications also stand disposed of.

SIDDHARTH MRIDUL
(JUDGE)

DEEPA SHARMA
(JUDGE)

MAY 01, 2018
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