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

\+ FAO 162/2018

M/S ICICI BANK LIMITED ..... Appellant
Through: Mr. Puneet K. Bhalla, Adv.

Versus

TREND SETTERS BOOK LTD & ANR ..... Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 01.05.2018

CM APPL. 17091/2018 (Exemption)

1. Allowed, subject to all just exceptions.

2. The application stands disposed-off.

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3. This appeal impugns an order of the learned Additional District Judge, dated 28.02.2018, declining to the appellant the relief of appointment of Receiver of the suit property sought under Order 40 Rule 1 CPC. The appellant had loaned an amount of Rs. 10 lacs to respondent no. 1 towards financing of a vehicle, namely, SCORPIO/S6 PLUS bearing no. MP-04CQ-1741. There was default in payment of the EMIs. Notice was issued to the respondents but it evinced no response. Therefore, the loan was recalled. The amount claimed to be outstanding is Rs. 5,96,970.47/-. Accordingly, the suit for recovery of the same alongwith interest had been filed. Although, the Trial Court issued notice to the respondents/defendants, it did

not deem it appropriate to appoint a Receiver rightaway.

4. The learned counsel for the appellant relies upon the judgment of this Court in FAO-7/2016 titled as ***ICICI Bank Ltd. vs. Updesh Nagar*** which set aside the ex-parte order declining the appointment of a Receiver, and then had appointed a Receiver.

5. The said judgment had relied upon the judgment of Supreme Court in ***A.Venkatasubbiah Naidu vs. S. Chellappan and Ors., 2000 7 SCC 695***, which had analysed the objective behind under Order 43 Rule 1 CPC and the judgment of the Bombay High Court in ***State Bank of India vs. Trade Aid Paper and Allied Products (India) Pvt. Ltd. & Ors.*** *AIR 1995 Bom 26,* which had exhorted Courts to adopt a practical approach while exercising power of appointment of a receiver in the case of banks and financial institutions having regard to the fact that they deal in public funds. The said judgment reads as under:-

> *"…Indeed, it is the duty and function of the Court entertaining the suits instituted by Banks and financial institutions to ensure that efforts are made to dispose of the suits as early as possible and even during the pendency of the suits, ensure that not only the properties are protected but the defendant is made to repay the amount, if desirous of enjoying the benefits secured by obtaining the loan. The powers of the Court under Order 40, Rule 1 of the Code of Civil Procedure are to be exercised to advance cause of justice and what is "just and convenient" depends upon the nature of the claim and the surrounding circumstances. The Court should not close eyes to the realities and blindly follow the principles laid down 50 years before when the suits by Banks and financial institutions were a novelty. The economic liberalization and the policy of the Government to grant loans for various activities have increased the number of suits by Banks and financial institutions and in this Court every year more than*

2,000 suits are instituted. It would not be difficult to imagine how much public money is involved in these suits and how long the Nationalised Banks and financial institutions are deprived of their dues. The Court should be conscious of these facts and should be more pragmatic in exercising powers under Order 40, Rule 1 of the Code of Civil Procedure.”

6. In view of the above, to secure the interests of the appellant’s suit property i.e. vehicle, namely, SCORPIO/S6 PLUS bearing no. MP-04CQ-1741, the Court deems it appropriate that a receiver be appointed. Consequently, Mr. Kameshwar Sahu, Representative of the appellant is appointed as a receiver. He shall be authorized as under:-

i) The receiver shall take possession of the vehicle but while doing so he will ensure that due courtesies are extended to the respondent/defendant.

ii) The receiver will also keep in mind the time and the place where the subject vehicle is taken possession of. If, at the time of taking possession, the respondent/defendant were to pay the sums, which are due and payable then, the receiver, will issue a receipt in that behalf to the respondent/defendant and release the vehicle on superdari to him.

iii) In case the police assistance is required, the receiver will approach the Station House Officer manning the nearest police station, who, in such eventuality, shall render due assistance to enable compliance in the matter.

iv) The receiver will file his report with the trial court within ten days of taking possession of the subject vehicle.

v) In case the receiver is successful in obtaining possession of the subject vehicle before the next date of hearing, the trial court will pass appropriate orders on the next date of hearing.

vi) However, in case the subject vehicle is not traced till the next date of hearing, the trial court will, accordingly, extend the period for locating the vehicle and, in that behalf, pass appropriate orders in the pending application.

7. The appeal is allowed and disposed off in the above terms.

8. A copy of this order be given *dasti* to the learned counsel for the appellant under the signatures of the Court Master.

NAJMI WAZIRI, J.

MAY 01, 2018/kk