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

+ W.P.(C) 4616/2018

AKSHAY BIPIN

..... Petitioner

Through: Mr. P S Patwalia, Sr. Advocate
with Mr. Sanjeev Bhandari and
Mr. Prateek Kumar, Advocates

Versus

UNION OF INDIA

..... Respondent

Through: Mr. Anil Soni, CGSC with
Mr. Abhinav Tyagi, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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02.05.2018

CM No. 17828/2018

Allowed, subject to all just exceptions.

WP(C) No. 4616/2018 & CM No. 17827/2018

Notice. Mr. Abhinav Tyagi, Advocate accepts notice on behalf of the respondent and seeks two weeks time to file a response to the petition. Rejoinder, if any, within two weeks, thereafter.

Heard on interim relief.

Impugned Memorandum of 28th March, 2018 relates to passing of order of 15th July, 2016 by petitioner in a disposed of OA purportedly to confirm a compromise entered into between the Bank and the Borrower for a sum of ₹ 20 lacs.

To assail the impugned order, learned Senior Counsel for

petitioner draws attention of this Court to order of 6th February, 2017 (Annexure VII), passed by the Chairman of the Debts Recovery Appellate Tribunal in a *suo motu* proceedings, wherein it has been observed as under :-

“The upshot of the above discussions is that the orders dated 15.07.2016 passed by the learned Presiding Officer of DRT-II, Chandigarh withdrawing Recovery Certificates No. 118/2012 and 266/2005 are rash and hasty decisions and passed in a very casual manner without the seriousness with which such like matters involving huge amount of public ought to have been dealt and also having been passed without any authority of law/jurisdiction and so are unsustainable. Those orders are accordingly set aside by me in exercise of powers under Section 17A of RDDBFI Act.

It is, however, clarified that I have found no reason to smell a rat in the passing of the orders dated 15.07.2016 by the Presiding Officer of DRT-II, Chandigarh as was the attempt of the complainant advocate in his complaint as also before me at the time of Personal hearing given to him by me. As noticed already the Hon’ble Supreme Court had in its various judgments had observed that High Courts can in exercise of its supervisory jurisdiction over subordinate courts even guidance can be given to subordinates. Therefore, whatever has been observed hereinbefore should be taken by the learned Presiding Officer as a piece of guidance also for future that he should not pass orders in haste. No doubt that DRTs were established so that public money is recovered by the banks from defaulting borrowers expeditiously but that effort should be at the expense of justice which is of paramount

importance and which would have got sacrificed in case the complainant had not highlighted the closure of the recovery proceedings in the present case.”

Learned Senior counsel for petitioner submits that in the light of the aforequoted observations, no case for proceedings with the departmental inquiry against petitioner is made out. Reliance is placed upon Section 33 of the Recovery of Debts and Bankruptcy Act, 1993.

In the light of the aforequoted observations as contained in order of 6th February, 2017 and bar contained in Section 33 of the aforesaid enactment, the operation of the impugned Memorandum and the order of 17th April, 2018 are hereby stayed.

List on 20th August, 2018.

Dasti.

SUNIL GAUR, J

MAY 02, 2018

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