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

\+ W.P.(C) 8105/2018

PUNJAB & SIND BANK ..... Petitioner

Through : Ms. Seema Gupta, Advocate

versus

UNION BANK OF INDIA & ORS ..... Respondents

Through : Mr. Kunal Tandon, Mr. Surendra Kumar, Mr. Prateek Jain, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% **03.08.2018**

CM No. 31095/2018

Exemption allowed subject to all just exceptions.

W.P.(C) 8105/2018

1. Punjab and Sind Bank has filed the present writ petition impugning the order dated 22nd January, 2018 passed by the Debts Recovery Appellate Tribunal in Appeal No. 400/2016.

2. By the impugned order, appeal preferred by Union Bank of India has been allowed and the direction of the Debts Recovery Tribunal for sharing of the sale proceeds of property No. C-2/6, Krishna Nagar, New Delhi between the petitioner (Punjab and Sind Bank), respondent No.1 (Union Bank of India) and respondent No. 2 (HDFC Bank) has been set aside.

3. The reasoning given by the Debts Recovery Appellate Tribunal

is correct and is in accordance with law. The mortgage in favour of Union Bank of India was vide documents executed on 7th August, 1999. The documents of mortgage executed in favour of the petitioner are dated 24th December, 1999. The documents executed in favour of erstwhile Centurion Bank of India which stands merged with HDFC Bank were executed in 2007.

4. The mortgage in favour of the first respondent (Union Bank of India) being prior in point of time would therefore be effective. Accordingly, the petitioner did not have any right to share the sale proceeds on the property being sold by the first respondent.

5. Learned counsel for the petitioner has submitted that the Debts Recovery Tribunal had not adjudicated and decided *inter se* rights between the petitioner bank and the respondent No.1 bank and respondent No. 2 bank. We do not agree with the said submission. The petitioner bank and the respondent No. 2 bank were impleaded as parties to TA No. 2/2013 which was filed by the first respondent bank for recovery of their dues. Written statements were filed by the petitioner bank relying upon the mortgaged documents executed on 24th December, 1999. Paragraph 12 of the order of the Debt Recovery Tribunal refers to the position and stand of the first respondent bank that the documents in their favour by deposit of original title deeds having been executed on 11th August, 1999 would create a prior charge in their favour. The Debt Recovery Tribunal had thereafter referred to the documents, statement of witnesses produced by the respondent No. 1 bank and affirmed that mortgage was duly created in favour of the said bank vide documents executed on 7th August, 1999.

6. Moreover, once the documents in favour of the respondent No. 1 bank are not disputed and challenged in the present writ petition, the claim and case of the petitioner bank predicated on documents subsequently executed in their favour would fail and has to be rejected. The petitioner bank or the second respondent may have been cheated and duped, but this cannot be a ground to direct the first respondent bank to share the sale proceeds.

7. Writ petition has no merit and is accordingly dismissed. There would be no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

AUGUST 03, 2018

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