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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6710/2018 and CM Nos. 25466/2018 and 25467/2018
SARVODAYA SUITINGS LTD Petitioner
Through : Mr. Mohit Choudhary, Advocate.

versus

STATE BANK OF INDIA & ORS Respondents
Through : Ms.Kittu Bajaj, Advocate with Mr.
Navneet Mishra, Law Officer.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

% **ORDER**
27.06.2018

Vide the present petition, the petitioner has inter alia impugned notice dated 31st March, 2018 issued by the respondent no.1 under section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act) as also order/objection dated 23rd June, 2018 as issued by the Registry of the Debts Recovery Tribunal (DRT).

Learned counsel for the petitioner submits that aggrieved by the notice dated 31st March, 2018 as also a subsequent communication dated 7th June, 2018 issued by the respondent-Bank, the petitioner had preferred a Securitization Application (hereinafter referred to as SA) before the Debts Recovery Tribunal, by way of mentioning, on 20th

June, 2018. He draws my attention to the mentioning slip and points out that when the matter was taken up by the Presiding Officer upon mentioning on 20th June, 2018, notice was directed to be issued for 25th June, 2018. He submits that after the passing of the said order by the Presiding Officer, the Registry of the DRT has instead of taking steps in accordance with the orders passed by the Presiding Officer, has returned the SA filed by the petitioner on the ground that the said SA was not maintainable.

Ms. Kittu Bajaj, Advocate, who appears on advance notice for the respondents, is unable to dispute the aforesaid position. She, however, contends that in view of the proviso to Section 13 (3A) of the SARFAESI Act, the SA itself was not maintainable and was, therefore, correctly returned to the petitioner by the Registry itself. The said averment of the learned counsel for the respondent is vehemently denied by the learned counsel for the petitioner who contends that the aforesaid provisions have been already interpreted in various decisions and it has been held that in such circumstances the SA would be maintainable.

In my considered opinion, at this stage, it is not for this Court, to examine the merits of the rival contentions raised by the learned counsel for the parties on the question of maintainability of the SA before the DRT. However, what this Court finds highly disturbing, is that despite the Presiding Officer of the Tribunal having specifically directed issuance of notice in the SA, the Officials of the Registry of DRT have chosen to return the SA file itself to the petitioner without placing the same before the Presiding Officer as per his order dated

20.06.2018. In my view, the action of the Registry was wholly without any authority and cannot at all be sustained.

Accordingly, without commenting on the merits of the issues raised in the petition, the order/objection dated 23.06.2018 passed by the registry of the DRT is quashed. The Registry of the DRT is directed to place the SA before the Presiding Officer, who will be free to deal with the matter on its own merits and pass appropriate orders in accordance with law.

List the matter before the DRT on 5th July, 2018, for consideration of the SA.

The petition is, accordingly, disposed of in the above terms.

Dasti under the signature of Court Master.

**REKHA PALLI
(VACATION JUDGE)**

JUNE 27, 2018
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