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

\+ W.P.(C) 9516/2018, CM Nos. 37082-37083/2018

PRAMOD KUMAR PANDEY ..... Petitioner

Through: Mr. R.P. Shukla, Ms. Upasna Shukla and Mr. Dhruv Shukla, Advs.

versus

VIJAYA BANK ..... Respondent

Through: Mr. Kush Sharma, Mr. Ekant Luthra and Ms. Shrutika Garg, Advs. for Bank

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

O R D E R

% **11.09.2018**

CM No. 37083/2018

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 9516/2018

1. The present petition has been filed by the petitioner challenging the order dated August 18, 2018 passed by the Debt Recovery Appellate Tribunal in Appel No.314/2018 arising out of T.A. No. 519/2002 passed by DRT-III Delhi dated June 05, 2018, whereby the DRAT has not entertained the appeal on the ground that the learned counsel for the petitioner has stated

that even if a direction to deposit the minimum amount of 25% of the debt is given, the same shall not be complied with.

2. The brief facts are that the respondent Bank has filed an OA before the Debt Recovery Tribunal being 519/2002 against the petitioner and others. The petitioner herein has filed a reply before the DRT wherein the petitioner has taken the following stand in his reply:

> *"The defendant No.2 in his written statement denied all the averments made by the bank in O.A. the allegation levelled by the applicant bank are altogether false, frivolous and cooked up and even, otherwise the O.A. is based on forged and fabricated documents. The O.A. has been filed on the basis of forged and fabricated documents and it is the defendants on whom the applicant bank has played a fraud and the defendants have never been granted any limit as falsely alleged by the applicant bank, the defendants have never opened any account in regard to the cash credit facility and for that the defendants cannot be held liable and the present O.A. is barred by limitation."*

3. The Tribunal decided the OA in favour of the Bank. Suffice to state, the Tribunal has rejected the stand of the petitioner No.2 in its reply before the DRT while disposing of the OA. The DRT has held the defendants Nos.1 to 10 which includes the petitioner herein jointly / severally liable for a sum of Rs.1,28,19,134/- together with cost and future interest at 15% per annum from the date of filing of this O.A. till the date of realisation. It has also issued some other directions. A recovery certificate was directed to be

issued forthwith to be sent to the Recovery Officer, DRT.

4. Learned counsel for the petitioner states that the petitioner was neither a Director nor a Guarantor. He was the Project Director and has no concern that the loan advanced by the respondent. We are unable to accept the plea of the learned counsel for the petitioner for the simple reason, the issue in the case in hand is whether the petitioner was liable to deposit at least an amount of 25% of the debt determined by the Tribunal before the Tribunal could have entertained the appeal. There is a determination of debt against the petitioner herein by the Tribunal in the order of OA. The Section 21 of the Debt Recovery Act is very clear in that regard and the same is reproduced as under:

> *"21. **Deposit of amount of debt due, on filing appeal**.- Where an appeal is preferred by any person from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal [fifty per cent] of the amount of debt so due from him as determined by the Tribunal under section 19:*
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> *Provided that the Appellate Tribunal may, for reasons to be recorded in writing, [reduce the amount to be deposited by such amount which shall not be less than twenty-five per cent. of the amount of such debt so due] to be deposited under this section."*

5. So, this Court cannot go into the merit of the dispute between the parties, which has to be determined by the Tribunal in the appeal filed by the petitioner which can only be entertained, if at least 25% of the determined amount is deposited as a pre-condition with the Tribunal. As there is a clear statement by the learned counsel for the petitioner that the petitioner shall not be able to deposit the same, the Tribunal has rightly not entertained the appeal.

6. We do not see any infirmity in the order passed by the Debt Recovery Appellate Tribunal, the writ petition is dismissed.

CM No. 37082/2018 (for stay)

Dismissed as infructuous.

CHIEF JUSTICE

V. KAMESWAR RAO, J

SEPTEMBER 11, 2018/*aky*