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

\+ W.P.(C) 10428/2018

M/S ICICI BANK LIMITED ..... Petitioner
Through: Mr. Puneet K. Bhalla and Ms. Chetna Bhalla, Advs.

versus

JAI KARAN SHUKLA AND ANR. ..... Respondents
Through: Mr. Suresh Arora, Adv. for R2.

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

<u>O R D E R</u>

% **01.10.2018**

<u>CM. No. 40641/2018 (for exemption)</u>

Exemption allowed subject to all just exceptions.

Application stands disposed of.

<u>W.P.(C) 10428/2018</u>

The challenge in this writ petition is to the order dated 20th September, 2018 passed by Debt Recovery Appellate Tribunal (DRAT) in Misc. Application no. 29/2018 whereby the DRAT has rejected the appeal filed by the ICICI Bank against an order of the DRT whereby the vehicle, which the petitioner Bank claims to have financed has been ordered to be released in favour of respondent no.2 herein, who claims to have purchased the same through a dealer of second hand cars on Superdari for a sum of

Rs.20 Lacs.

Suffice it to state that DRAT has not interfered with the order of the DRT on the ground that DRT has exercised its discretionary power ordering the release of the vehicle by considering the facts and circumstances. We agree with the conclusion arrived at by the DRAT. That apart, the DRAT has also while dismissing the appeal observed as under: -

> *"Therefore, this appeal is dismissed making it clear that the DRT will decide the bank's claim totally uninfluenced by the rejection of this appeal by the bank and this order will also not deprive the appellant bank to move an appropriate application under Section 19(18) of RDDBFI Act 1993 for obtaining appropriate directions for recovery of its money by attachment and sale of its buyer's property, movable as well as immovable, as has been requested by counsel for the appellant. In case any such prayer is made before the DRT, the same shall also be dealt with in accordance with law."*

It is the submission of Mr. Puneet Bhalla, learned counsel appearing for the petitioner that the order directing the release of vehicle on Superdari basis shall not protect the interest of the Bank in as much as with the passage of time, the value of the vehicle may depreciate. According to him, the DRAT should have directed the respondent no.2 to deposit some amount with the Bank to balance equities.

We are not impressed with the said argument of Mr. Bhalla, as liberty has been granted by the DRAT to the Bank to move appropriate application under Section 19 (18) of RDDBFI Act, 1993 for obtaining appropriate directions for recovery of its money by attachment and sale of its buyer's property moveable or immoveable. In fact, we find that such a direction was at the behest of the petitioner Bank itself. The interest of the petitioner Bank having been protected, the impugned order needs no interference.

The petition is dismissed.

CM No. 40641/2018 (for stay)

Dismissed as infructuous.

CHIEF JUSTICE

V. KAMESWAR RAO, J

OCTOBER 01, 2018/*jg*