

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

% Date of decision: 22nd October, 2018

+ W.P.(C) 11102/2018, CM Nos. 43166-43167/2018
KOTAK MAHINDRA BANK LIMITED Petitioners
Through: Mr. Ravi Gupta, Sr. Adv. with
Mr. M. Dutta, Mr. Sachin Jain and
Mr. Sanjay Lamba, Advs.

versus

SUPREME TRANSPORT ORGANISATION PVT LTD & ORS
..... Respondents
Through: Mr. Rajinder Wali, Adv. and
Mr. Anand Aggarwal, Adv. for R1
Mr. Rishi Sood, Adv. for R4 & R8

AND

+ W.P.(C) 11108/2018, CAV 953/2018, CM Nos. 43184-43185/2018
SUPREME TRANSPORT ORGANISATION PVT LTD
..... Petitioner
Through: Mr. Rajinder Wali, Adv. and
Mr. Anand Aggarwal, Adv.

versus

KOTAK MAHINDRA BANK LTD & ORS
..... Respondents
Through: Mr. Ravi Gupta, Sr. Adv. with
Mr. M. Dutta, Mr. Sachin Jain and
Mr. Sanjay Lamba, Advs.

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

V. KAMESWAR RAO, J. (ORAL)

CAV 953/2018 in W.P.(C) 11108/2018

Since counsel for the cavetor is present.

Caveat stands discharged.

CM No. 43167/2018 (for exemption) in W.P.(C) 11102/2018

CM No. 43185/2018 (for exemption) in W.P.(C) 11108/2018

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

W.P.(C) 11102/2018 & W.P.(C) 11108/2018

1. These two appeals have been filed by the appellants challenging the common order dated September 24, 2018 passed by the Debt Recovery Tribunal, Delhi-I (in short 'DRT').

2. The grievance of the appellant in W.P. (C) 11102/2018 (by Kotak Mahindra Bank Ltd.) is that the OA No. 778/2018 filed by it, has been held to be not maintainable on the ground of territorial jurisdiction, whereas the grievance of the appellant in W.P. (C) 11108/2018 (by Supreme Transport Organisation Pvt. Ltd.) is that the Tribunal has directed interim order passed by it to remain in force for a period of 30 days.

3. It is the case of Kotak Mahindra Bank Ltd. and contended by Mr. Ravi Gupta, learned Senior Counsel appearing for the Bank that the Tribunal without deciding the application filed by it for

amendment of the OA, wherein it had sought amendments to para 3 pertaining to “*Jurisdiction*”, wherein it was specifically stated that all the decisions pertaining to its financial facilities both fresh and old along with maintenance of books of accounts and not limited to recovery of outstanding amount is being serviced and maintained at the Regional Office situated at IBIS, Commercial Block, Asset No.9, Hospitality District, Delhi Aerocity IGI Airport, New Delhi which according to him would show that the DRT, Delhi-I had the jurisdiction to entertain the Original Application in view of Section 19(1)(a) of the RDDBFI Act.

4. He also states that the issue of jurisdiction is a mixed question of fact and law and needs to be decided by giving opportunity to the Kotak Mahindra Bank Ltd. to put its case in support of its contention that the Tribunal had the jurisdiction by allowing the amendments sought.

5. On the other hand, Mr. Rajinder Wali, learned counsel appearing for the Supreme Transport Organisation Pvt. Ltd. states that on a perusal of the Original Application filed by Kotak Mahindra Bank Ltd., it is seen that bald averments have been made without satisfying as to how the DRT-I, Delhi has the jurisdiction.

6. He also stated that the grievance of the Supreme Transport Organisation Pvt. Ltd. in its writ petition is to the extent that the DRT has continued the interim order, even though, the Tribunal had specifically concluded that it does not have the territorial jurisdiction to entertain the Original Application filed by the Kotak Mahindra Bank Ltd. Mr. Wali also stated that the appellant, Supreme Transport Organisation Pvt. Ltd. had also filed an application for vacation of order dated July 24, 2018, whereby a garnishee order has been passed directing debtors of Supreme Transport Organisation Pvt. Ltd. to make payments in the account maintained with the Kotak Mahindra Bank Ltd. According to him, the said order is affecting the working / finances of the Supreme Transport Organisation Pvt. Ltd, and is liable to be vacated.

7. Having heard the learned counsel for the parties, agreeing with the submission of Mr. Gupta, we dispose of the writ petitions by setting aside the order dated September 24, 2018 and thereby directing the Tribunal to decide the application for amendment filed by Kotak Mahindra Bank Ltd. for amendment of the Original Application and thereafter, decide the issue of the territorial jurisdiction of the DRT-I, Delhi to entertain the Original

Application. The Tribunal shall also decide the application filed by the Supreme Transport Organisation Pvt. Ltd. for vacation of interim order dated July 24, 2018, while considering the application on the issue of territorial jurisdiction of the Tribunal to entertain the OA.

CM No. 43166/2018 (for stay) in W.P.(C) 11102/2018
CM No. 43184/2018 (for stay) in W.P.(C) 11108/2018

Dismissed as infructuous.

V. KAMESWAR RAO, J

CHIEF JUSTICE

OCTOBER 22, 2018/aky