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

+ **W.P.(C) 13255/2018 & CM APPLs. 51567-68/2018**

KOTAK MAHIDRA BANK LIMITED Petitioner
Through: Ms. Sanya Lamba, Adv.

versus

SUSHIL KUMAR GOEL & ANR Respondents
Through: None.

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

% **ORDER**
07.12.2018

CM APPL. 51568/2018 (*exemption*)

Allowed, subject to just exceptions.

W.P.(C) 13255/2018 & CM APPLs. 51567/2018

1. This petition has been filed seeking expunction of certain remarks made by the DRT-III, Delhi in S.A. No.388/2017 and also being aggrieved by a direction issued to the Chairman-cum-Managing Director (CMD) of the respondent Bank to file an affidavit with regard to the issue detailed in the order. It is stated that the observation made with regard to connivance is not correct, the same should be expunged and as the CMD is not dealing with the day-to-day affairs of the Bank it was not appropriate to direct him to file the affidavit. Instead, the Bank should have been directed to file the affidavit by a competent officer dealing with the issue in question.

2. Having considered the same and import of the reason why the learned Tribunal directed the CMD to file the affidavit, we are of the considered view that the Tribunal wanted the CMD to take note of the facts stated in the order and thereafter file the affidavit.

3. That being so, for the present we are not inclined to expunge the remarks made with regard to the connivance in the matter. The same is left open to be considered by the Tribunal if the prayer is made for its expunction after an appropriate affidavit is filed.

4. As far as filing of the affidavit by the CMD is concerned, interest of justice would be met if the same is modified to the extent that the orders passed shall be brought to the notice of the CMD. The CMD after considering the same may authorize an officer to file the affidavit on behalf of the Bank and the affidavit filed by the officer shall contain the authorization granted by the CMD to file the affidavit. The CMD may authorize an officer in the rank of Vice-President of the bank to file the affidavit after going through the order and the affidavit shall be filed along with the approval of the CMD for filing the affidavit and approving the contents thereof in a separate communication which shall form part of the affidavit.

5. With the aforesaid, the writ petition stands disposed of. The pending application also stands disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 07, 2018/kks