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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
36, 38, 39, 40, 43 & 44

+ **W.P.(C) 13283/2019**

ICICI BANK LTD.

..... Petitioner

Through: Mr Punit K. Bhalla, Advocate.

versus

HIMANSHU SRIVASTAVA AND ORS.

..... Respondents

Through: None.

+ **W.P.(C) 13287/2019**

ICICI BANK LTD.

..... Petitioner

Through: Mr Punit K. Bhalla, Advocate.

versus

GAURAVJEET SINGH AND ORS.

..... Respondents

Through: None.

+ **W.P.(C) 13288/2019**

ICICI BANK LTD.

..... Petitioner

Through: Mr Punit K. Bhalla, Advocate.

versus

VIJAY KUMAR SINGH AND ORS.

..... Respondents

Through: None.

+ **W.P.(C) 13289/2019**

ICICI BANK LTD.

..... Petitioner

Through: Mr Punit K. Bhalla, Advocate.

versus

PANKAJ BHARDWAJ AND ORS.

..... Respondents

Through: None.

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the physical file and no page was lost.

W.P.(C) 13283/2019 & connected matters

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ICICI BANK LTD.

W.P.(C) 13301/2019

Through: Mr Punit K. Bhalla, Advocate. Petitioner

versus

RUPESH CHANDRA PODDAR AND ORS.

Through: None.

..... Respondents

+
ICICI BANK LTD.

W.P.(C) 13302/2019

Through: Mr Punit K. Bhalla, Advocate. Petitioner

versus

PRADEEP KUMAR PANDEY AND ORS.

Through: None.

..... Respondents

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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17.12.2019

CM APPL. 54007/2019 (exemption) in W.P.(C) 13283/2019

CM APPL. 54023/2019 (exemption) in W.P.(C) 13287/2019

CM APPL. 54024/2019 (exemption) in W.P.(C) 13288/2019

CM APPL. 54025/2019 (exemption) in W.P.(C) 13289/2019

CM APPL. 54079/2019 (exemption) in W.P.(C) 13301/2019

CM APPL. 54081/2019 (exemption) in W.P.(C) 13302/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 13283/2019

W.P.(C) 13287/2019

W.P.(C) 13288/2019

W.P.(C) 13289/2019

W.P.(C) 13301/2019

W.P.(C) 13302/2019

2. In all these matters, a short point arises for determination, for which

notice is not required to be issued to the Respondents, since it involves the functioning of the Registry of the Debt Recovery Tribunal ('DRT').

3. In each of the present petitions, the Petitioner bank had filed original applications (OAs). The said OAs were lying in defect. The question then arose as regards the curing of the defect and re-filing the OAs. By the general orders dated 28th December, 2016 and 13th January, 2017 the Registry of the DRT-III stated *inter alia* that if the defects notified by the Registry were not rectified by the time specified, registration of those OAs would be declined.

4. Aggrieved by such omnibus orders, chamber appeals were filed under Rule 5 (5) of the DRT (Procedure) Rules, 1993, accompanied by applications for condonation of delay in filing such chamber appeals. The orders were passed in the said chamber appeals on 19th July, 2019 by the DRT-II, relegating the Petitioner again to the Registry to cure the defects, subject to the Petitioner bank paying costs of Rs.20,000/- to the Prime Minister's Relief Fund, as a last opportunity, failing which the OAs would not be entertained by the DRT-III.

5. The appeals filed by the Petitioner against the said order, were rejected by the Debt Recovery Appellate Tribunal ('DRAT'), by its order dated 21st October, 2019.

6. Having heard the learned counsel for the Petitioner, the Court is of the view that the question whether the defects notified by the Registry of the DRT were in fact cured within the time stipulated is a question that had to be

decided by the DRT, and could not have been relegated to the Registry. In other words, the question that the DRT had to determine was whether the defects pointed out by the Registry of the DRT in its “report on the scrutiny of the applications” stood rectified?

7. According to the Petitioner, those defects in the present cases, were indeed rectified, despite which, the Registry of the DRT, in an omnibus order, notified that if the defects were not cured by the time as stipulated in such orders, registration would be declined. It is this omnibus order that has led to filing of the Chamber Appeals, in the first place.

8. The Court agrees with the learned counsel for the Petitioner that the question of whether the defects actually stand cured or not, as claimed by the Petitioner, ought to be decided by the DRT, since the decision of the Registry already formed a view in the matter. The course that should be adopted in such cases is for the Registry of the DRT to place the OAs, which according to the Registry of the DRT continue to remain defective even beyond the deadline stipulated, before the DRT, together with the defect report and for the counsel to first satisfy the DRT that those defects stand rectified. The question whether the delay in curing the defects deserves to be condoned, subject to terms, will also be decided by the DRT concerned.

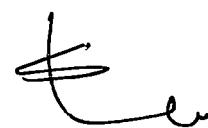
9. In that view of the matter, the impugned orders dated 19th July, 2019 of the DRT-III in all these matters and the corresponding order dated 21st October, 2019 passed by the DRAT are hereby set aside. The OAs, together with the applications filed in the OAs, are restored to the file of the DRT-III for the decision, first on whether the defects pointed out by the Registry of

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the DRT-III, in each of the OAs stand cured or not.

10. The OAs, along with the applications be now listed before the DRT-III, on 21st January, 2020.

11. The petitions are disposed of in above terms. No costs.



S. MURALIDHAR, J.



TALWANT SINGH, J.

DECEMBER 17, 2019

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