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

+ **W.P.(C) 5026/2019 & C.M. APPL. 22259/2019**

BED PRAKASH SURENDRA NATH TRIPATHI AND ANR.... Petitioners

Through: Mr. Prasoon Kumar Mishra,
Advocate.

versus

UNION BANK OF INDIA AND ANR. Respondents

Through: Mr. Gautam Gupta, Advocate for R-1.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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17.12.2019

1. The Petitioners approached the Court directly, assailing a recovery certificate issued to them under the provisions of the Recovery of Debts of Banks and Financial Institutions Act ('RDBI Act').

2. On 20th May, 2019, the following order was passed by this Court:

“Issue notice to the respondents returnable on 27.08.2019 before the Registrar (Appellate) for completion of pleadings.

The submission of learned counsel for the petitioner is that the petitioner has been cheated by the builder - respondent No.2 in the present case. He submits that though the loan was taken from respondent No.1, and the petitioners had also made additional payment of Rs.38 lakhs vide receipts dated 09.11.2013 and 06.12.2013, till date, the petitioners have not got any flat from the respondent builder. He submits that one FIR stands registered against the builder and the petitioner has

also made an application to the police that he too has been cheated. He submits that the petitioner bank and has learnt of the Recovery Certificate only when notice of attachment dated 20.03.2019 was received from the Recovery Officer.

In these circumstances, we stay the operation of the Recovery Certificate subject to the condition that the petitioner shall, within two weeks, move an appropriate application before the DRT, bringing to its notice the aforesaid facts and circumstances while praying for recall of the order whereby Recovery Certificate was issued in O.A. No. 388/2015 dated 25.02.2017.

List before Court on 17.12.2019.”

3. Learned counsel for the Petitioners states that pursuant to the above order, he has now filed an application before the DRT-I on 27th August, 2019.

4. Learned counsel for the Respondent No. 1 bank informs the Court that what the Petitioners have filed is an “affidavit of filing representation/application.”

5. Be that as it may, since the Petitioners have now filed the above application before the DRT-I for its consideration in accordance with law, the Court, therefore, disposes of the present petition with the direction that if the Petitioners are aggrieved by the order passed by the DRT on the aforementioned application, it will be open to them to seek further remedy in accordance with law.

6. The application filed by the Petitioners will now be listed, with or without defects, before the DRT-I on 7th January, 2020.

7. The petition is disposed of in above terms.

8. The interim order dated 20th May 2019 passed by this Court will continue till the disposal of the above application of the Petitioner by the DRT. The application pending before this Court is disposed of. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 17, 2019

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