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

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+ **W.P.(C) 9231/2019**

MEENU BANSAL Petitioner

Through: Mr Amandeep Singh, Advocate.

versus

ALLAHABAD BANK AND ORS. Respondents

Through: Mr I.S. Chauhan, Advocate for UCO Bank.

Mr Ashok Kumar Jain and Mr Amit Kasera, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

26.08.2019

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Caveat 854/2019

1. Since the learned counsel for the Respondents have put in appearance, the caveat is discharged.

CM 38086/2019 (exemption)

2. Allowed, subject to all just exceptions.

W.P.(C) 9231/2019 & CM 38085/2019(stay)

3. This writ petition challenges an order dated 18th July, 2019 passed by the Debt Recovery Appellate Tribunal ('DRAT') dismissing the Appeal No.167/2018 filed by the Petitioner against an order dated 28th February, 2018 passed by the Debt Recovery Tribunal ('DRT') dismissing the Petitioner's IA No.2027/2017 seeking condonation of delay in filing the review application against an order dated 10th July, 2017 passed by the DRT in SA No.671 of 2017 filed by the Petitioner.

4.The brief facts are that the Petitioner filed the aforementioned application being SA 671 of 2017 before the DRT under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act') aggrieved by the action of the Allahabad Bank (hereafter 'Bank') in taking over the possession of the property at C-5/158-159, Second Floor, Sector-VI, Rohini (hereafter 'the property in question'), of which the Petitioner claims to be the bonafide purchaser from the Respondent Nos. 2 and 3 herein.

5. By the order dated 10th July, 2017, the DRT dismissed the above application SA 671 of 2017. Aggrieved by the said order, the Petitioner first sought to file a review petition on 5th December, 2017 before the DRT. Under Rule 5-A of the Debt Recovery Tribunal (Procedure) Rules, 1993 ('DRT Rules'), the review petition had to be filed within 30 days from the date of the order of which review is sought. Admittedly, there was a delay of 68 days in filing the review petition. Accordingly, the Petitioner filed IA No.2027/2017 seeking condonation of the delay in filing the review petition. That application was dismissed by the DRT by the order dated 28th February, 2018 by referring to the decision of the Supreme Court in ***International Asset Reconstruction Company of India Ltd. v. The Official Liquidator of Aldrich Pharmaceuticals Ltd. IV (2017) BC 571 (SC)***.

6. The appeal filed against the aforesaid order dated 28th February, 2018 has been dismissed by the DRAT by the impugned order dated 18th July, 2019.

7. Learned counsel for the Petitioner referred to Section 22 of the Recovery of Debts and Bankruptcy Act, 1993 ('RDB Act') as well as Section 17 (7) of the SARFAESI Act in terms of which the provisions of the RDB Act, to the extent that they applied to DRT would also apply to the applications filed under the SARFAESI Act before the DRT. According to the learned counsel for the Petitioner, the power of the DRT to review its own order has been recognized by Section 22 (2) (e) of the RDB Act. He submits that the Limitation Act, 1963 would apply for the purposes of condonation of delay in filing of the review petition notwithstanding that Rule 5-A of the DRT Rules prescribes a 30-day period for filing such review application. He seeks to distinguish the decision of the Supreme Court in *International Asset Reconstruction Company of India Ltd. v. The Official Liquidator of Aldrich Pharmaceuticals Ltd.* (*supra*) on the ground that it was concerned with the condonation of delay in filing an appeal before the DRT against the order of the Recovery Officer whereas in the present case the question concerned delay in filing a review petition before the DRT.

8. In the considered view of the Court, there was no merit in the above contention. Rule 5-A (2) of the DRT Rules, prescribes an outer limit of 30 days for filing a review petition before the DRT. The question of resorting to the Limitation Act for the purposes of condonation of delay in filing the review petition does not arise on account of the mandatory nature of Rule 5-A (2) of the DRT Rules. Section 24 of the RDB Act which states that the provisions of the Limitation Act "shall, as far as may be, apply to the application made to a Tribunal", cannot be invoked in the present case. The expression "as far as may be" indicates that when there is no specific

provision regarding limitation for filing an application/petition/appeal under the RDB Act, then the Limitation Act would apply.

9. In the present case since Rule 5-A (2) of the RDB Rules unambiguously states that “no application seeking review shall be made” after the expiry of period of 30 days from the date of the order of which the review is sought, the question of entertaining any review petition filed beyond the 30 days period by the DRT, does not arise.

10. In that view of the matter, the impugned order of the DRAT concurring with the DRT in rejecting the Petitioner’s application for condonation of delay in filing the review petition calls for no interference.

11. The writ petition is accordingly dismissed. The pending application is also disposed of. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 26, 2019

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