IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(Proceedings through Video Conferencing)

CWP No.13538 of 2020 (O&M)
Date of Decision: 07.10.2020

Bank of India ....Petitioner

Versus

Debts Recovery Appellate Tribunal and others ....Respondents

CORAM :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Kamal Preet Singh Dhillon, Advocate
for the petitioner.

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DAYA CHAUDHARY, J. (ORAL)

C.M. No.9963-CWP of 2020

This application has been moved for placing on record Annexure P-23.

Civil Misc. Application is allowed. Annexure P-23 is taken on record.

CWP No.13538 of 2020

The petitioner-Bank has filed the present petition for quashing of impugned order dated 04.11.2019 (Annexure P-21) passed by respondent No.1-Debts Recovery Appellate Tribunal, New Delhi through its Registrar in Appeal No.500/2017 titled as ***Punjab National Bank vs Bank of India and others*** as well as order dated 10.11.2017 (Annexure P-17) passed by respondent No.2.

It has been mentioned in order dated 12.02.2020 that the provisions of Section 144 CPC are not applicable. The judgment passed in

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"OBC vs Canara Bank 2011 BC 14 (DRAT Delhi)" has been relied upon in the said order. The petitioner is having a remedy under Section 11 of the SARFEASI Act, 2002 (here-in-after referred to as `the Act, 2002) as the dispute can be settled by resorting the said remedy. Section 11 of the Act, 2002 is reproduced as under :-

> *" 11. Resolution of disputes-Where any dispute relating to securitisation or reconstruction or non-payment of any amount due including interest arises amongst any of the parties, namely, the Bank, or financial institution, or securitisation company or reconstruction company or qualified institutional buyer, such dispute shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996 (26 of 1996), as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and the provisions of that Act shall apply accordingly."*

Accordingly, by considering the provisions of Section 11 of the Act, 2002, we do not find any merit in the contention raised by learned counsel for the petitioner. The remedy is available to petitioner under Section 11 of the Act, 2002. The petitioner is at liberty to avail that remedy before the appropriate Forum.

The petition is disposed of accordingly.

(DAYA CHAUDHARY)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

07.10.2020
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Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

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