

C.O. No. 4001 of 2017

Kotak Mahindra Bank Limited

Vs.

Arya Bhandar Private Limited & Ors.

Mr. Joy Saha, Sr. Adv.,

Mr. Sarathi Dasgupta,

Mr. Pratik Ghose,

Mr. Avisheki Roy Chowdhury,

Ms. Debarati Das

... For the petitioner.

Mr. Subrata Goswami

... For the opposite parties.

The revisional application under Article 227 of the

The Debts Recovery Tribunal No. – I, Kolkata

disposed of the application under Section 19 of The

Recovery of Debts Due to Banks and Financial

Institutions, 1993 (now, The Recovery of Debts and

Bankruptcy Act, 1993) being O.A. No. 254 of 1999

with the following order : -

"i) Claim of the Applicant No. 2 Bank is

allowed with cost.

ii) The Defendants jointly and severally are

liable to pay to the Applicant No. 2 a sum of

Rs. 1,38,67,768/- with interest @ 16.5% per

quarterly rests from 1/8/1999 against the

iii) The amount of claim is secured by the

mortgage to the immovable properties and

hypothecation of movable of the Defendants.

The same may be sold for satisfaction of the dues of the Applicant No. 2.

iv) The order of injunction dated 11/1/2007 shall continue till further order to be passed by the Ld. Recovery Officer.

v) Let, a certificate be issued accordingly.

Order dictated in the open Tribunal.

Copy of the order be given to the parties.”

The opposite party nos. 1 to 3 aggrieved by the said order of the Tribunal have preferred the connected appeal before the Debts Recovery Appellate Tribunal, Kolkata.

The appellants/opposite parties in the said appeal filed an application for waiver of the deposit required to be made to maintain the said appeal under Section 21 of the said Act of 1993.

The Appellate Tribunal by the order impugned has disposed of the said application by directing the appellants/opposite party nos. 1 to 3 to deposit a sum of Rs. 50 lakhs within a period of two months from the said order.

Under Section 21 of the said Act of 1993 to maintain an appeal, the petitioner is required to deposit 50% of the amount of the debt due from him as determined by the Tribunal under Section 19 thereof however by the proviso thereto, the Appellate Tribunal may, for reasons to be recorded in writing reduce the amount to be deposited by such amount which shall not be less than 25% of the amount of the debt so due.

In view of the amount of due to the petitioner determined under Section 19 of the said Act of 1993, the direction of the Appellate Tribunal to deposit Rs. 50 lakhs is not sustainable being not in consonance with the provision of Section 21 thereof or the proviso appended thereto.

The order impugned, therefore is set aside.

The Appellate Tribunal is required to decide the said application under Section 21 of the said Act of 1993 afresh in accordance with law.

C.O. 4001 of 2017 is disposed of with the above observation without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)