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

Date of Decision: 19.07.2023

+ **W.P.(C) 8290/2023 and CM APPL. 31836/2023**

M/S. RAL NUTRALIFE PVT. LTD. Petitioner
Through: Mr Suhail Khan, Mr Vishal Raj
Sehijpal, Mr Anwar Ahmed
Khan and Mr Purushendra
Bhardwaj, Advocates.

versus

STATE BANK OF INDIA & ORS. Respondents
Through: Mr Akshit Kapur and Mr
Tushar Bagga, Advocates for
SBI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The petitioner has filed the present petition, *inter alia*, praying that Recovery Officer-I, Debts Recovery Tribunal-II, Delhi (hereafter '**the Recovery Officer, DRT-II**') be directed to conclude the proceedings for confirmation of sale of immovable property described as property bearing no.223/2 (part), known as '*Gurxetachi Buim*' situated near the Retreat by the Zuari Varca Village, Solcete, Goa, admeasuring 2732.50 sq. meters (hereafter referred to as '**the said property**'). The petitioner further prays for issuance of directions to release the documents relating to the said property. In the alternate, the

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By: DUSHYANT
RAWAL
Signing Date: 25.07.2023

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petitioner prays that the Recovery Officer, DRT-II be directed to refund the auction money deposited by the petitioner for purchase of the said property.

2. The petitioner had participated in an auction for the said property held on 12.10.2022. The said auction was initiated for recovery of the amount against Recovery Certificate issued in favour of respondent no.1 (State Bank of India) by the Recovery Officer in *RC No. 393/2018* captioned *State Bank of India v. M/s Avant Developments Pvt. Ltd.* The petitioner was declared as the successful bidder and it deposited the entire consideration by way of demand drafts with the Recovery Officer of Debts Recovery Tribunal-I, Delhi (hereafter '**the Recovery Officer, DRT-I**').

3. Thereafter, in terms of the Notification dated 04.10.2022 issued by the Ministry of Finance, Government of India, the recovery proceedings in question (RC No. 393/2018) were transferred from the Recovery Officer, DRT-I Delhi to the Recovery Officer, DRT-II Delhi. The recovery proceedings were renumbered as TRC No. 121/2022.

4. The aforesaid matter (TRC No. 121/2022) was listed before the Recovery Officer, DRT-II, on 15.11.2022. However, the Recovery Officer, DRT-II did not confirm the sale of the said property in favour of the petitioner on the ground that he had not received the demand drafts furnished by the petitioner as consideration for the said property and therefore, was unable to verify the payments made by the petitioner. Apparently, the file pertaining to the recovery proceedings was



received by the Recovery Officer, DRT-II but the demand drafts continued to remain with the Recovery Officer, DRT-I.

5. It is stated that, thereafter, the proceedings before the Recovery Officer, DRT-II were repeatedly adjourned, *inter alia*, on the ground that this Court was seized with the question relating to the reallocation of jurisdiction of the Debts Recovery Tribunals in terms of the Notification dated 04.10.2022 (hereafter '**the notification**')

6. The learned counsel for the parties have submitted that proceedings before the Debts Recovery Tribunals in Delhi have come to a standstill in view of the lack of clarity regarding their jurisdiction after the issuance of the notification. It is submitted that the Bombay High Court has stayed the notification and thereafter, there was a lack of clarity whether the Debts Recovery Tribunals could exercise the jurisdiction in terms of the notification.

7. The Hon'ble Bench of the Bombay High Court at Aurangabad had passed an order dated 17.11.2022 in Writ Petition No. 11164/2022 captioned *Ishwarlal Shankarlal Lalwani (Jain) v. The Union of India, Through the Chief Secretary*, whereby the notification was stayed. It is submitted by the counsel that in view of the said order, the functioning of the Debts Recovery Tribunals in Delhi have come to a standstill. The matters pending before Debts Recovery Tribunals were transferred in accordance with the allocation of jurisdiction in terms with the notification. And, the Debts Recovery Tribunals vested with the jurisdiction in terms of the notification are deferring the matter before them as the notification has been stayed by the Bombay High



Court. Thus, neither the Debts Recovery Tribunals possessed the jurisdiction they had prior to the notification nor had the Debts Recovery Tribunals seized with the jurisdiction in terms of the notification, and are not proceeding to decide the pending matters.

8. In view of the above, the principal question to be considered is whether the DRT-II is possessed with the jurisdiction to proceed with TRC- 121/2022.

9. It is relevant to refer to the decision of the Bombay High Court in Writ Petition No.11164/2022. Paragraph 1 of the order dated 17.11.2022 passed by the Bombay High Court in *Writ Petition No. 11164/2022* (*supra*) reads as under:

“1. The petitioner has put forth prayer clauses (B) and (C), which read as under :-

“B. This Hon’ble Court may kindly be pleased to pass an appropriate order/writ declaring that the impugned notification dated 4th October 2022 issued by the Respondent; bearing no.4719 (e) annexed at Exhibit A hereto is unconstitutional / illegal and quash and set aside the same;

C. During the pendency of this Writ Petition, the effect and operation of the impugned notification dated 4th October 2022 issued by the Respondent; bearing no. 4719 (e) may kindly be stayed;”

10. It is apparent from the above that the petitioner in Writ Petition No.11164/2022 had assailed S.O. 4719(E) dated 04.10.2022 and not S.O. 4718(E), whereby the jurisdiction was reallocated, *inter alia*, amongst the Debts Recovery Tribunals at Delhi. In terms of the said order, the Bombay High Court has suspended “the Notification dated



04.10.2022”. It is, thus, apparent that the reference to the notification in the order dated 17.11.2022 is to S.O. 4719(E) dated 04.10.2022, which was challenged by the petitioner in the said writ petition and not S.O.4718(E) dated 04.10.2022. Thus, we are of the view that the said order does not suspend S.O. 4718(E) dated 04.10.2022 and therefore, benches of Debts Recovery Tribunals in Delhi are required to exercise jurisdiction as allocated in terms of S.O. 4718(E) dated 04.10.2022.

11. In an order dated 18.04.2023 passed by a Co-ordinate Bench of this Court in *International Asset Reconstruction Company Pvt. Ltd. v. Anoop Bishnoi & Ors.: W.P.(C) 3708/2021*, the Court had made observations to the effect that the Notification in question had not been stayed for Delhi. Paragraph 5 of the said order is set out below:

“5. In terms of the notification, which has not been stayed for Delhi, presently the matter would need to be heard by DRT-II. However, since it is not functional, its additional charge is being held by DRT-III. Let DRT-III look into the matter and dispose off all pending applications on a priority basis, preferably within 08 weeks. This direction is in view of the fact that the *lis* pertaining to the loan extended in 1986, is being pursued by the parties for the past 22 years. There must be some adjudication by the forum of first instance.”

(Emphasis Added)

12. By an order dated 18.07.2023 passed in W.P.(C) 8923/2023 captioned *Falak Industries Pvt. Ltd. Through Authorised Agent Mr Mohd. Salim Khatri v. Punjab National Bank Ltd.*, this Court had observed that the order dated 17.11.2022 passed by the Bombay High Court in Writ Petition No. 11164/2022 (*supra*) did not stay S.O.



4718(E) dated 04.10.2022 and accordingly, directed DRT-II to decide the appeal of the petitioner in that case on merits.

13. In the given circumstances, we direct the Recovery Officer, DRT-II seized with the proceedings TRC- 121/2022 to consider the petitioner's request for confirmation of sale of the said property and pass appropriate orders as expeditiously as possible and preferably within a period of two weeks from today.

14. The petition is disposed of in the aforesaid terms. All pending applications are also disposed of.

15. The Registry of this Court is directed to communicate a copy of this order to the Presiding Officers of Debts Recovery Tribunal-I Delhi, Debts Recovery Tribunal-II Delhi, and Debts Recovery Tribunal-III Delhi.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

JULY 19, 2023
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