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

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Date of decision: 13.12.2023

+ **W.P.(C) 3641/2023, CM APPL. 14114/2023 & 26018/2023**

ARUN KUMAR TANTIA

..... Petitioner

Through: Mr Hashmat Nabi with Mr Mohit Nagpal, Ms Shariqa Aftab, Ms Farah Naaz and Mr Ved Prakash Bhatt, Advocates.

versus

INDUSTRIAL DEVELOPMENT BANK OF INDIA LTD

..... Respondent

Through: Mr Manas Shukla, Advocate.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

1. This writ petition is directed against the order dated 08.02.2023 passed by the Recovery Officer-I, Debt Recovery Tribunal-II, Delhi [in short, "Recovery Officer"].

2. Via the impugned order, the Recovery Officer rejected the petitioner's application in which the following substantive prayer had been made:

"a) Pass an order/direction vacating/ dropping/withdrawing all proceedings qua the property situated at BAGHMARA, JASIDIH, DISTT. SANTHAL PARGANA, BIHAR (NOW JHARKHAND) as mentioned in order dated 15/12/2022..."

3. In sum, the submission of the petitioner, before the Recovery Officer, was that he did not have jurisdiction to deal with the subject immovable



property as it was located outside its territorial jurisdiction.

4. The record shows, and something which Mr Hashmat Nabi, learned counsel, who appears on behalf of the petitioner, does not dispute, is that during the pendency of the instant writ petition, the petitioner had preferred a miscellaneous application [MA/77/2023, Debts Recovery Tribunal-II, Delhi] for transferring the respondent's recovery proceedings to the appropriate Debt Recovery Tribunal [in short, "DRT"]. This aspect stands captured in the order, dated 25.07.2023, passed by a coordinate bench.

4.1 Previously, based on the submission made on behalf of the petitioner that he would move an appropriate application for transfer of the case, the coordinate bench had, on 18.05.2023, directed that no precipitate action would be taken by the parties regarding the subject property.

5. We may note that counsel for the parties point out that there is a typographical error in paragraph 3 of the order, dated 18.05.2023, inasmuch as the reference made to OA No. 300/2001 should have read as RC 347/2012 and RC 155/2015, as Recovery proceedings (RC) have been triggered against the petitioner based on the disposal of the Original Application (OA).

6. Furthermore, our attention has also been drawn by Mr Nabi to the orders passed in the miscellaneous application (MA) preferred by the petitioner for transfer of the recovery case.

7. The record shows that after hearing counsel for the parties the Presiding Officer had reserved orders in the MA on 09.11.2023. *Via* the said order it had been indicated that pronouncement would be made on 28.11.2023. However, on 28.11.2023, the Presiding Officer summoned the case file of the recovery proceedings for "proper disposal of the MA." Accordingly, on that date, directions were issued that a hearing in the MA



would take place on 04.03.2023 (sic...04.03.2024).

8. Given the aforesaid position, we are of the view that the instant writ can be disposed of with the following directions, *albeit*, with the consent of counsel for the parties:

(i) The concerned Presiding Officer of DRT-II, Delhi is requested to advance the date of hearing in the subject miscellaneous application and dispose of the same within two (2) weeks from the date arguments in the miscellaneous application are concluded.

(ii) Needless to add, while disposing of the subject miscellaneous application, regard will be had to the contentions advanced on behalf of the parties.

(iii) The interim direction contained in the order dated 18.05.2023 will continue to operate, till disposal of the subject miscellaneous application and, for ten (10) days thereafter.

(iv) If a party is aggrieved by the order passed *qua* the subject miscellaneous application, the said party will have the liberty to take recourse to an appropriate remedy, *albeit*, as per law.

9. The Presiding Officer is requested to list the miscellaneous application for hearing in the second (2) week of January 2024, if not earlier.

10. The Registry will dispatch a copy of this order to the concerned Presiding Officer of DRT-II, Delhi *via* all modes including e-mail.

11. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 13, 2023 / tr