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

% *Date of Decision: 16.11.2023*

+ **W.P.(C) 8330/2019 & CM APPL. 34493/2019, 50200/2019,
55658/2019 & 25013/2023**

**INVENT ASSETS SECURITIZATION AND
RECONSTRUCTION PRIVATE LIMITED**

..... Petitioner

Through: Mr. Ashok Panigrahi & Ms.
Geetanjali Das Krishnan, Advs.

versus

PUNJAB NATIONAL BANK AND ORS.

..... Respondents

Through: Mr. Syed Arsalan, Mr. Prateek
Khaitan, Chatanya Sharma & Mr.
Shitij Chakravarty, Advs.
Mr. Hashmat Nabi & Ms. Divya
Kaur, Advs. for PNB.
Mr. Manohar Malik & Ms. Astha,
Advs. for R3&4.
Mr. Ravi Data & Mr. Rajesh
Sharma, Advs. for intervenor.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE ANISH DAYAL

VIBHU BAKHRU, J.

1. The petitioner has filed the present petition impugning an order dated 05.07.2019 (hereafter '**the impugned order**') passed by the learned Debts Recovery Appellate Tribunal (hereafter '**the DRAT**')



directing the petitioner to make a deposit of 50% of the debt in question as adjudicated by the learned Debts Recovery Tribunal-I (hereafter '**the DRT**').

2. The petitioner was called upon to make a pre-deposit in terms of Section 21 of the Recovery of Debts and Bankruptcy Act, 1993 (hereafter '**the RDB Act**') in the context of the petitioner's appeal (Appeal No.168/2019) against an order dated 21.02.2019 passed by the DRT in O.A. No.178/2016.

3. The learned counsel appearing for the petitioner submits that the impugned order is onerous as the petitioner is not a borrower. He states that respondent no.1, Punjab National Bank (PNB) had instituted the said action (O.A. No.178/2016) in respect of funds lent to one Supreme Alloys Limited (hereafter '**the borrower**') against the security interest created in a property bearing Plot No. 575- 67 measuring 4321 sq. yards under Khasra No. 58, 62-66, 569-571, 573-577, Village Bisnoli, Dujana Road, Dadri, Distt. Gautam Budh Nagar, Noida sold by the petitioner for enforcement its security interest. He submits that the petitioner was an assignee of a financial asset by respondent no.6 (Jammu and Kashmir Bank Ltd.). It had, accordingly, acquired security interest in the subject property which was, thereafter, sold to the borrower. He submits that there was no privity between the petitioner and PNB and therefore, the petitioner is not liable to pay any amount to PNB.

4. It is not necessary to examine the contentions advanced by the



petitioner as, concededly, that is the issue, which the petitioner seeks to raise in its appeal before the learned DRAT in its appeal. The controversy in the present petition is confined to the impugned order declining to entertain the petitioner's appeal prior to the petitioner making a pre-deposit as required under Section 21 of the RDB Act.

5. Section 21 of the RDB Act reads as under: -

“21. Deposit of amount of debt due, on filing appeal. – Where an appeal is preferred by any person from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal [fifty per cent] of the amount of debt so due from him as determined by the Tribunal under section 19:

Provided that 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 twenty-five per cent. of the amount of such debt so due] to be deposited under this section.”

6. It is a *trite* law that the remedy of an appeal is a statutory right and therefore, is circumscribed by the relevant statute. In *Vijay Prakash D. Mehta v. Collector of Customs, (1988) 4 SCC 402*, the Supreme observed as under: -

“9. Right to appeal is neither an absolute right nor an ingredient of natural justice the principles of which must be followed in all judicial and quasi-judicial adjudications. The right to appeal is a statutory right and it can be circumscribed by the conditions in the grant.”

7. This view was also reiterated by the Supreme Court in the



context of requirement of pre-deposit under the RDB Act, in the case of *Kotak Mahindra Bank Private Limited v. Ambuj A. Kaslival & Ors.: (2021) 3 SCC 549*. Thus, notwithstanding the merits of the petitioner's appeal, the petitioner is required to make a pre-deposit under Section 21 of the RDB Act to maintain the appeal before the learned DRAT. It is equally well settled that any amount of pre-deposit made pursuant to Section 21 of the RDB Act is not required to be remitted to claimant bank/institution.

8. It is clear from the plain reading of Section 21 of the RDB Act that 50% of the amount as determined by the learned DRT. In the present case, the learned DRT had determined an amount of ₹20.31 crores was due and payable by the petitioner along with the interest. The relevant extract of the said order dated 21.02.2019 is set out below: -

“(ii) The liability of the defendant no. 5&6 is upto the extent of Rs.20.31 crores alongwith interest. The defendant No. 5 & 6 are hereby directed to refund the amount of Rs. 20.31 crores alongwith interest @24% p.a. from 19.10.2010 till the date of payment to the applicant bank immediately. It is made clear that the liability of defendant No.5&6 is upto the extent amount received from auction dated 19.10.2010.”

9. In view of the above, the petitioner is not required to pay 50% of the total amount as payable by the parties. The petitioner's obligation to make a pre-deposit to maintain the appeal is confined to 50% of ₹20.31 crores along with the interest at the rate of 24% per annum from 19.10.2010.



10. Thus, the impugned order to the extent that it requires the petitioner to make a pre-deposit of 50% of a sum of ₹62,83,81,073/- is erroneous.

11. In view of the above, the present petition is disposed of by directing the learned DRAT to consider the petitioner's appeal on merits subject to the petitioner making the deposit of 50% of the aforesaid amount – that is, ₹20.31 crores along with interest, within a period of eight weeks from the date.

12. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

ANISH DAYAL, J

NOVEMBER 16, 2023
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