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

\+ FAO (COMM) 195/2023 & CM APPL. 49856-49858/2023

SUSHIL SHARMA ..... Appellant

Through: Mr. Sandeep Kumar, Advocate.

versus

STATE BANK OF INDIA & ANR. ..... Respondents

Through: Mr. Sunil Sehrawat, Advocate.

% ***Date of Decision: 08th November, 2023***

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT

MINI PUSHKARNA, J: (ORAL)

1. The present appeal has been filed challenging the order dated 06th September, 2023 passed by the learned District Judge (Commercial Court) - 01, South West, Dwarka Courts, Delhi in *CS (COMM) 35/2023*, by which the application of the appellant under Order VII Rule 10 of Code of Civil Procedure, 1908 ("CPC") for return of the plaint was dismissed.

2. On behalf of appellant it is contended that the dispute between the parties does not come under the ambit and scope of a commercial dispute in terms of Section 2 (1) (c) of the Commercial Courts Act, 2015. It is submitted that home loan taken by the appellant cannot be interpreted as a commercial dispute for the purpose of invoking the jurisdiction of the Commercial Courts Act. Therefore, it is submitted that the commercial suit

filed on behalf of respondent no. 1 bank against the appellant for recovery of home loan advanced to the appellant, is not maintainable as the same does not fall within the ambit of a commercial dispute.

3. Perusal of the documents on record shows that the appellant booked a flat with the respondent no. 2, a builder and for this purpose entered into a Flat Buyer Agreement dated 5th December, 2014. Subsequently, the appellant availed home loan from the respondent no. 1 bank. Simultaneously, a Tripartite Agreement dated 21st August, 2015 was executed between the appellant and respondents herein. Since the appellant defaulted in payment of loan instalments, disputes arose between the parties. Pursuant to the same, the respondent no. 1 bank filed a suit for recovery of Rs. 11,84,193/- being *CS (COMM) 35/2023* against the appellant and respondent no. 2 herein, before the learned District Judge, Commercial Court, Dwarka Courts. Thus, it is manifest that the dispute between the parties is a commercial dispute.

4. The suit filed on behalf of the bank for recovery of home loan advanced to the appellant falls within the ambit of a commercial dispute. This Court does not concur with the submissions advanced on behalf of the appellant that the dispute between the parties wherein the appellant has defaulted in payment of home loan instalments is not a commercial dispute. The definition of a "Commercial Dispute" as given in Section 2 (1) (c) of the Commercial Courts Act, 2015 covers all disputes arising out of ordinary transactions of merchants, bankers, financers and traders. Therefore, the dispute in the present case is a commercial dispute qua which commercial suit for recovery filed on behalf of the respondent no.1 bank against the appellant, is maintainable.

5. No infirmity is found in the impugned order. Accordingly, the present appeal is dismissed along with the pending applications.

MINI PUSHKARNA, J

MANMOHAN, J

NOVEMBER 8, 2023
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