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

+ W.P.(C) 15264/2024

DEMASE DEVELOPERS PRIVATE LIMITEDPetitioner

Through: Mr. Sidharth Yadav, Sr. Adv.
with Mr. Apoorv Agarwal, Ms.
Prachi Darji, Ms. Saloni Singh,
Mr. Tushar Gadia and Mr.
Kamakshraj Singh, Adv.

versus

INDIAN OVERSEAS BANK & ORS.Respondents

Through: Mr. Parmod Kumar, Adv.

+ W.P.(C) 15265/2024

JEFFY REALTORS PRIVATE LIMITEDPetitioner

Through: Mr. Sidharth Yadav, Sr. Adv.
with Mr. Apoorv Agarwal, Ms.
Prachi Darji, Ms. Saloni Singh,
Mr. Tushar Gadia and Mr.
Kamakshraj Singh, Adv.

versus

INDIAN OVERSEAS BANK & ORS.Respondents

Through: Mr. Parmod Kumar, Adv.

+ W.P.(C) 15266/2024

ALVITA REALTORS PRIVATE LIMITEDPetitioner

Through: Mr. Sidharth Yadav, Sr. Adv.
with Mr. Apoorv Agarwal, Ms.
Prachi Darji, Ms. Saloni Singh,
Mr. Tushar Gadia and Mr.
Kamakshraj Singh, Adv.

versus

INDIAN OVERSEAS BANK & ORS.Respondents

Through: Mr. Parmod Kumar, Adv.

+ W.P.(C) 15267/2024

DEV RISHAB REAL ESTATE PRIVATE



LIMITED

.....Petitioner

Through: Mr. Sidharth Yadav, Sr. Adv.
with Mr. Apoorv Agarwal, Ms.
Prachi Darji, Ms. Saloni Singh,
Mr. Tushar Gadia and Mr.
Kamakshraj Singh, Advs.

versus

INDIAN OVERSEAS BANK & ORS.

.....Respondents

Through: Mr. Parmod Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

14.11.2024

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CM APPL. 65876/2024 in W.P.(C) 15264/2024

CM APPL. 65992/2024 in W.P.(C) 15265/2024

CM APPL. 65871/2024 in W.P.(C) 15266/2024

CM APPL. 65970/2024 in W.P.(C) 15267/2024

1. These applications have been moved by the petitioners in the above noted cases seeking certain rectifications in the order dated 06.11.2024 passed by this Court in W.P.(C) 15264/2024, W.P.(C) 15265/2024, W.P.(C) 15266/2024 & W.P.(C) 15267/2024
2. Learned counsel for the respondents/Bank is present on advance notice. Although he states that he has received the copies of application only in the morning, however, he has no objection if the proposed rectifications are considered in accordance with law.
3. Upon hearing the learned counsel for the parties and on perusal of the record, I proceed to decide the instant application. The order dated 06.11.2024 is not repeated herein for the sake of brevity and the same may be read as a part and parcel of this order.
4. In short, rectification is sought in the paragraph (9) of the order dated 06.11.2024 to the effect that instead of holding that “the proceedings are still continuing before the learned DRT”, it may be



written that “the proceedings are still continuing under the SARFAESI Act”. Further, it is sought to be clarified that the admitted amount of ₹1,516.65/- crores is *qua* the respondents/bank and not against all the creditors of the borrower.

5. Further in the paragraph (10), instead of the sentence “the sale proclamation has been issued for sale of the mortgaged property”, it is sought to be corrected by providing the sentence that “the sale deed has been executed for sale of the mortgaged property”.

6. Further, in the paragraph (13) of the order dated 06.11.2024, instead of providing ‘that the matter is fixed for pronouncement of the orders on 08.11.2024, it should be read as “that the matter is fixed for consideration on 08.11.2024”.

7. It is also pointed out that the matter is now listed for hearing on 27.11.2024 before the learned DRT.

8. Insofar as the aforesaid pleas are concerned, the same, if incorporated, in the earlier order dated 06.11.2024 shall not make any material difference. The rectifications are merely superficial in nature and clarificatory so that the substantive part of the order is not misunderstood. The aforesaid proposed rectifications are allowed.

9. Therefore, the paragraphs (9), (10) and (13) shall read as under:-

“9. Learned senior counsel for the petitioners raised the grievance that despite the debt of the corporate debtor having been restructured and resolution plan being approved by the CoC, of which the respondent no.1/IOB was the signatory, the proceedings are still continuing under the SARFAESI Act. It was pointed out that by way of a corporate debt restructuring, there is an admitted secured claim of ₹1,129.44 crores as against the admitted unsecured claim of ₹387.21 crores and thereby total admitted amount is ₹1,516.65/- crores *qua* the respondents/bank.”



10. Learned counsel for the petitioner has urged that even during the course of the SARFAESI proceedings, there have been several blemishes committed by the respondent no.1/IOB in as much as it has failed to comply with Section 13(8) of the SARFAESI Act besides Rule 8(6) and 9(1) of the Security Interest (Enforcement) Rules, 2002 so much so that now the sale deed has been executed for sale of the mortgaged property, which is an agriculture property, in complete derogation of Section 31(i) of the SARFAESI Act.
13. Learned senior counsel for the petitioner submitted that they have already raised appropriate objections before the learned DRT but instead of deciding their objections, the learned DRT has heard them on their securitisation application and that the matter is fixed for consideration on 08.11.2024 and now on 27.11.2024.

10. Learned senior counsel for the petitioner has also urged that the paragraph (14) also requires to be modified since it was argued that a decision in the case of **Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd and Ors.**¹ is binding upon the courts and tribunals in terms of Article 141 of the Constitution of India. It is, therefore, urged that instead of starting the paragraph with the sentence “unhesitatingly, the petitioner is approaching this Court for a relief which cannot be entertained since the matter is already pending before the learned DRT”, it is requested that it may be written that “unhesitatingly, the petitioner has a case on merits, however, it is approaching this Court for a relief which cannot be entertained since the matter is already pending before the learned DRT”.

11. The said amendment to my mind is not called for. A bare reading of contents of the paragraphs (14) and (16) of the order dated 06.11.2024 would show that the Court considered the submissions advanced by the learned senior counsel for the petitioner and although

¹ MANU/SC/1042/2023



there was some merit in his submissions, this Court refused to entertain the matter since it is but obvious that such legal issues should be considered and decided by the learned DRT, which is already seized of the matter.

12. Accordingly, the present applications are partly allowed to the aforesaid extent. The relevant paragraphs be amended accordingly.

13. This order may be read as part and parcel of the previous order dated 06.11.2024 to the extent it is rectified.

14. The applications stand disposed of accordingly.

DHARMESH SHARMA, J

NOVEMBER 14, 2024
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