

DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Misc. Appeal No.129/2023

Arising out of OA No.1497/2017 (DRT-II, Chandigarh)

Item No. 34

Sanjeev Sharma

V.

Dena Bank (Now BOB) and others

16.07.2026 Hon'ble Dr. Justice Sudhir Kumar Jain

Present: Sh. M.C. Kochar, Advocate for appellant through VC

Sh. Yashu Rustagi, Advocate for respondent bank through VC

This matter is taken up through Hybrid hearing.

1. The respondent no.1 Dena Bank filed O.A. bearing No. 130/2014 titled as **Dena Bank v. HRM Export Private Limited & others** which was stated to be pending before DRT-I, Chandigarh.
2. The O.A. bearing No. 130/2014 was taken up for hearing on 18.03.2014 and on said date, DRT-I, Chandigarh ordered that the notice of the OA be sent to the defendants by registered AD/Speed Post as well as Dasti on all addresses mentioned in cause title. The respondent no.1 was also directed to collect the notice and serve upon the defendants with the proof of service within 30 days. It was further ordered that if the notices could not be served by Registered AD/Speed Post/ Dasti within 30 days then service can be affected by publication.
3. It is reflecting from the order dated 12.05.2014 passed by the Registrar that Sh. Ashish Sharma proxy for Sh. Atul Sharma, Counsel appeared on behalf of appellant i.e. defendant no.12 and memo of appearance vide Diary no. 5163 dated 12.05.2014 was also filed. The proxy Counsel was also directed to file Power of Attorney within one week. The order dated 08.08.2014 passed by the Registrar reflects that none of the defendants had appeared despite service by publication. The DRT-I, Chandigarh vide order dated 19.03.2015 after being satisfied with the service through publication and also service by way of dasti, registered cover ordered for proceeding the defendants as *ex parte*.

3. The appellant being the defendant no.12 aggrieved by the order dated 19.03.2025 filed I.A. bearing No. 858/2023 for setting aside the order dated 19.03.2015 along with I.A. No. 859/2023 for condonation of delay in filing I.A. bearing No. 858/2023. I.A. bearing No. 858/2023 was dismissed vide impugned order dated 08.06.2023. The relevant portion of the impugned order dated 08.06.2023 is reproduced as under:

It was further argued on behalf of the applicant bank that earlier memo of appearance was filed by Sh. Atul Sharma Advocate on behalf of the applicant. If one goes by the sum and substance of the defendant (applicant of the IA), then the publication has to be effected in a newspaper which is being read by the defendant. This is ridiculous. There is hardly any explanation for the filing of the memo of appearance by the counsel and subsequent non-appearance of the applicant. From the facts and circumstances of the case, this Tribunal is of the considered opinion that a 'cock and bull story' has been invented by the applicant herein in which there is absolutely no substance. It appears that the applicant expected credulity from this Tribunal knowing it little that the perspicacity is the hallmark of the judicial Forums. In a nutshell, the application has been filed with a view to delaying the proceedings. Consequently, the same deserves dismissal and it is dismissed accordingly.

4. The Counsel for the appellant stated that the appellant being the defendant no.12 was never served with the notice in terms of order dated 18.03.2014. He also referred the affidavit of Ramendra Chauksey which was filed to demonstrate the service upon the appellant. It is mentioned in the affidavit dated 12.05.2014 that the appellant being the defendant no.12 was not available at the given address and thereafter the service was affected through publication.

5. The Counsel for the appellant also referred the order dated 12.05.2014 passed by the Registrar and stated that the appellant never authorised either Sh. Ashish Sharma or Sh. Atul Sharma to appear on his behalf and the memo of appearance which was filed vide Diary No. 5163 dated 12.05.2014 did not bear the signature of the appellant. In these circumstances, it is argued that the appellant being the defendant no.12 in the OA was never served with the summons in terms of order dated 18.03.2014.

6. The Counsel for the respondent argued that the respondent/Dena Bank in compliance of order dated 18.03.2014 has tried to serve the appellant being

defendant no.12 and when he was not available at the given address then the service was affected through publication strictly in compliance of order dated 18.03.2014. It is also argued that the DRT-II, Chandigarh in the impugned order dated 08.06.2023 has rightly observed that the said application was filed only to delay the proceedings and prayed that the present appeal be dismissed.

7. The perusal of order dated 18.03.2014 reflects that the DRT-I, Chandigarh has directed the service upon the defendants by registered AD/Speed Post as well as Dasti and in case of non service by these modes then service was to be effected through publication. The affidavit deposed by Sh. Ramendra Chauksey dated 14.05.2014 clearly reflects that on 26.04.2014, on the date of visit of Ramendra Chauksey at the address of the appellant at that time, the appellant was not available thereafter the service was affected through publication.

8. Even otherwise, the order dated 12.05.2014 passed by the Registrar also reflects that one Ashish Sharma, Advocate appeared as proxy Counsel for Sh. Atul Sharma, Advocate for appellant being the defendant no.12. The order dated 12.05.2014 was never challenged by the appellant / defendant no.12.

9. The DRT in impugned order dated 08.06.2023 has considered all the relevant facts before passing the impugned order. There is no illegality or infirmity in the impugned order dated 08.06.2023 which warrants any interference from this Tribunal. The appeal is devoid of any merit. Hence dismissed. However, in the interest of justice the cost of Rs. 15,000/- imposed by the DRT-II, Chandigarh upon the appellant / defendant no12 is ordered to be waived.



(Dr. Justice Sudhir Kumar Jain)
Chairperson

-N