

DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Appeal No.58/2024

In

Chamber Appeal No.01/2023

Arising out of MA NDN No.83/2023 (DRT-III, Delhi)

Item No. 15

Indian Overseas Bank

V.

D.G. Footwear Private Limited and others

22.07.2026 Hon'ble Dr. Justice Sudhir Kumar Jain

Present: Sh. Ronnie S. Brara and Sh. Rishi Gupta, Advocate for appellant

Sh. Sunav Rastogi, Advocate for respondent no.3 through VC

None for other respondents

This matter is taken up through Hybrid hearing.

I.A. No. 268/2024 (Application for condonation of delay filed by appellant)

1. There is a delay of 71 days in filing the present appeal due to the reasons as stated in the application. After considering all facts, the delay of 71 days in filing the appeal stands condoned. The application is allowed accordingly.

Appeal No.58/2024

2. The respondent no.5 i.e. PNB filed O.A. bearing No.129/2017 titled as **Punjab National Bank V. D.G. Footwear Private Limited and others** which was decided vide final order dated 28.03.2019 passed by DRT-III, Delhi and in the said OA, the subject property bearing No. S-201, 2nd Floor (without roof rights), bearing municipal no. 783-A, ward no. XVI, plot no. 161, Khasra no. 579/384/35, 36, 39, Khata Khewat no.1, Khatuni no. 271, in Block-BD, situated at WEA, Desh Bandhu Gupta Road, Karol Bagh, Delhi as detailed in para-3 of the final order dated 28.03.2019.

3. The appellant also filed O.A. bearing No.765/2016 titled as **Indian Overseas Bank V. M/s Josh Impex Private Limited and others** which was decided vide final order dated 18.02.2019 by DRT-III, Delhi and the subject property was detailed in para-3 of the final order dated 18.02.2019.
4. The appellant claimed that the subject properties in both original applications were different part of the same property. Thereafter, the appellant filed an application bearing NDN No.84/2023(MA) titled as **Indian Overseas Bank V. D G Footwear** for impleadment in a decided O.A. No.129/2017 titled as **Punjab National Bank V. D.G. Footwear Private Limited and others**.
5. The Assistant Registrar attached with DRT-III, Delhi vide proceedings dated 10.08.2023 has declined to register the said application by observing that MA is seeking to set aside/modify/rectify the final order. The Assistant Registrar in the order dated 10.08.2023 has referred various Debts Recovery Tribunal (Procedure) Rules 1993 and Debts Recovery Tribunal Regulations, 2015.
6. The appellant being aggrieved by order dated 10.08.2023 had filed Chamber Appeal bearing CA No.01/2023 titled as **Punjab National Bank V. D.G. Footwear** which was ordered to be dismissed vide impugned order dated 25.10.2023 passed by DRT-III, Delhi. The relevant portion of the impugned order dated 25.10.2023 is reproduced as under:

4.1 It is admitted position that final order dated 28.03.2019 was passed in OA No. 129/2017 titled as **PNB V. M/s D.G. Footwear Private Limited & others** and in the said OA the appellant herein (IOB) was not a party. The said Final Order dated 28.03.2019 has already attained finality. Though, appellant here has filed MA under Section 19(25) of DRT Act which is similar to Section 151 of CPC and both the provisions gives inherent powers to this Tribunal to pass such orders and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice. But, in the case in hand, appellant herein / IOB was not a party to the OA and is stranger in this matter because the Judgement dated 28.03.2019 has attained finality and no proceedings are pending in the OA. Under the provisions of Section 19(25) of RDB Act, Final Judgement cannot be set aside /modified / rectified and same is not applicable in this matter.

-3-

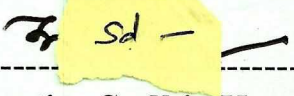
7. The appellant being aggrieved by the impugned order dated 25.10.2023 filed the present appeal. Sh. Ronnie S. Brara, Advocate for the appellant argued that the Assistant Registrar passed the order dated 10.08.2023 without assigning any reason and by merely referring certain rules of Debts Recovery Tribunal (Procedure) Rules 1993 and Debts Recovery Tribunal Regulations, 2015.
8. The Assistant Registrar has not discussed the pleas taken by the appellant in the application for impleadment. It is further argued that the DRT-III, Delhi in the impugned order dated 25.10.2023 observed that the appellant was not the party in the original application and the judgement dated 28.03.2019 has attained finality as such the final order in view of Section 19(25) of the Recovery of Debts and Bankruptcy Act, 1993 could not be set aside, modified and rectified.
9. Sh. Brara, Advocate during the course of argument has cited a decision delivered by Bombay High Court in **Dr. Anil Nandkishore Tibrewala & another V. Jammu and Kashmir Bank Limited & others** which was also referred by this Tribunal in a decision dated 10.02.2021 titled as **STCI Finance Limited V. Indian Overseas Bank and others** passed in Appeal No. 02/2021 on 10.02.2021. Sh. Ronnie S. Brara, Advocate further argued that DRT-III, Delhi in the impugned order 25.10.2023 has not considered the proposition of law as laid down in the above cited case and merely dismissed the application by observing that the judgement dated 28.03.2019 passed in O.A. No.129/2017 has attained finality and as per the Section 19(25) of the Recovery of Debts and Bankruptcy Act, 1993, the judgement could not be set aside / modified / rectified. In these circumstances, Sh. Ronnie S. Brara, Advocate argued that the impugned order dated 25.10.2023 be set aside and the appellant be allowed to implead as one of the necessary parties in O.A. bearing No.129/2017 titled as **Punjab National Bank V. D.G. Footwear Private Limited and others**.
10. Sh. Sunav Rastogi, Advocate for respondent no.3 has contested the appeal and referred the reply filed by the respondent no.3 having particulars in para-12 of the reply.

-4-

11. The perusal of impugned order dated 25.10.2023 reflects that DRT-III, Delhi has dismissed the Chamber Appeal bearing CA No.01/2023 filed against the order passed by Assistant Registrar merely on the ground that the final order has attained finality. DRT-III, Delhi has not considered the legal proposition as laid down in the aforesaid judgement delivered by Bombay High Court which was also followed by this Tribunal as detailed herein above.

12. After considering all facts, the impugned order dated 25.10.2023 is set aside and DRT-III, Delhi is directed to reconsider the application for impleadment filed by the applicant after considering the judgement passed by Bombay High Court and this Tribunal in accordance with law.

13. The appellant and other respondents are directed to appear on 24.08.2026 before DRT-III, Delhi (now before DRT-II, Delhi) for further direction.



(Dr. Justice Sudhir Kumar Jain)
Chairperson

-VB