DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Appeal No. 125/2020
Arising out of OA No.1002/2018 (DRT-Jaipur)

Item No. 13

Deepak Singh and others
V.
Punjab and Sind Bank and another

21.08.2026 Hon'ble Dr. Justice Sudhir Kumar Jain

Present: Sh. Anand Aggarwal, Advocate for the appellant through VC
Ms. Seema Gupta, Advocate for the respondent through VC

This matter is taken up through Hybrid hearing.

I.A. No.619/2020 (application for condonation of delay)

1. The instant application is filed for condonation of delay under Section 5 of the Limitation Act. It is stated in the application that the impugned judgment was passed on 23.04.2019, but the appellants got the knowledge when the sale proclamation notice dated 09.11.2020 was affixed and published for auctioning the properties of the appellants.

2. Sh. Anand Aggarwal, Advocate for the appellants stated and argued that if the limitation is counted from 09.11.2020, the appeal is filed well-within the period of limitation.

3. Ms. Seema Gupta, Advocate for the respondent no.1 opposed the application by arguing that the appellants were having knowledge of the pending O.A. bearing no.1002/2018 before DRT, Jaipur. Ms. Gupta during the course of arguments referred para 4 of the appeal which is regarding limitation and stated that the appellants were having the knowledge of the impugned judgment dated 23.04.2019 even before 09.11.2020. Ms. Gupta also referred reply to the appeal filed by the respondent no.1 wherein it was stated that the appellant were appearing in the recovery proceedings in R.C. No.204/2019, and also referred preliminary objections taken in the reply.

4. Although it is appearing from the record that the appellants were having knowledge about the passing of the impugned judgment dated 23.04.2019 as they were appearing in the recovery proceedings, yet in the interest of justice since the appeal is pending from 2020, the delay, if any, in filing the present appeal is condoned. The application is accordingly allowed.

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5. The respondent no.1 filed O.A. bearing no.1002/2018 tilted as **Punjab and Sind Bank V. S.R. Mobile & others** which was stated to be pending before DRT, Jaipur. DRT, Jaipur vide the impugned judgment dated 23.04.2019 has decreed the O.A. and passed the following order:-

11. In the light of above discussions, the Original Application deserves to be allowed.

ORDER

(i) I allow this OA and direct the Defendants to pay to the Applicant Bank, within a period of 30 days, a sum of Rs.11,66,036.50 (Rupees Eleven Lac Sixty Six Thousand Thirty Six and Paisa Fifty Only) along with pendentelite and future interest @10% p.a. (Simple in both the accounts) from the date of filing of the present OA till its realization, failing which, the aforesaid amount shall be recovered from the sale of equitable mortgage property of the defendant No.2, 3 & 4 i.e. immovable property House No.7, Girraj Colony, Near Railway Station, Bharatpur (Raj) and also from the personal movable and immovable assets of the Defendants and the Defendants are liable to pay the Bank dues jointly and severally. The cost of litigation be also borne by the Defendants. The applicant Bank is also directed to file the revised statement of account before the Ld. Recovery Officer of this Tribunal.

(ii) The recovery certificate be issued forthwith and be sent to the Recovery Officer of this Tribunal.

(iii) Parties are directed to appear before the Recovery Officer, DRT, Jaipur on 23.05.2019.

(iv) Copy of this Judgment and recovery certificate be sent to all the parties free of cost by registered post. File be consigned to record room.

6. The impugned order dated 23.04.2019 also reflects that the appellants were proceed *ex parte* vide order dated 26.03.2019. Sh. Anand Aggarwal, Advocate for the appellants stated that the appellants were never served with the notice of the O.A. and as such the impugned judgment dated 23.04.2019 is liable to be set aside.

7. Ms. Seena Gupta, Advocate for the respondent no.1, on the other hand, has argued that the subject property has already been put to auction and sold to auction purchaser who has not been impleaded as necessary party in the present appeal. It is further stated that the appellants were duly served with the notice of the O.A. bearing no.1002/2018. Accordingly Ms. Seema Gupta has defended the impugned judgment and argued that the present appeal is liable to be dismissed.

8. It is reflecting that the appellants were proceeded *ex parte* on 26.03.2019. Sh.Anand Aggarwal, Advocate for the appellants stated that the present appeal can be disposed of by giving liberty to the appellants to file an application under Order IX Rule 13 CPC or under relevant legal provisions to set aside the *ex parte* judgment dated 23.04.2019, within one month. Accordingly, the present appeal is disposed of with liberty to the appellants to file an application under relevant provisions of law to set aside the judgment dated 23.04.2019 within one week from today. Thereafter, the DRT shall decide the said application filed in terms of the present order in accordance with law. It is made clear that this Tribunal has not expressed any opinion on the merit of the case. The parties are directed to appear before DRT, Jaipur on 09.10.2026.

9. Since the appeal stands disposed of, the pre-deposit amount, if any, be refunded to the appellants as per law after verification.

Sd -

(Dr. Justice Sudhir Kumar Jain)
Chairperson

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