

Icici Bank Limited vs Satyabeer Singh And Anr on 21 January, 2019

Author: Vipin Sanghi

Bench: Vipin Sanghi, A. K. Chawla

\$~29, 31, 48, 49 & 50

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 535/2019 AND CM APPL. 2472/2019 (ARISING OUT OF OA 687/2018)

ICICI BANK LIMITED Petitioner

versus

SATYABEER SINGH AND ANR. Respondents

31

+ W.P.(C) 538/2019 AND CM APPL. 2475/2019 (ARISING OUT OF OA 686/2018)

M/S ICICI BANK LIMITED Petitioner

versus

SATYA BEER SINGH AND ANR. Respondents

48

+ W.P.(C) 628/2019 AND CM APPL. 2877/2019 (ARISING OUT OF OA 731/2018)

ICICI BANK LIMITED Petitioner

versus

KARAN & ANR Respondents

49

+ W.P.(C) 633/2019 AND CM APPL. 2895/2019 (ARISING OUT OF OA 688/2018)

M/S ICICI BANK LIMITED Petitioner

versus

SATYA BEER SINGH AND ANR. Respondents

50

+ W.P.(C) 620/2019 AND CM APPL. 2865/2019 (ARISING OUT OF OA 685/2018)

ICICI BANK LIMITED Petitioner

versus

SATYA BEER SINGH & ANR Respondents

Present : Mr. Punit K. Bhalla and Ms. Chetna Bhalla, Advs. for the petitioner.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% 21.01.2019

1. The petitioner-ICICI Bank Ltd. has preferred the instant writ petitions to assail similar orders

passed by Debts Recovery Tribunal, Delhi (Tribunal) in the respective Original Applications taken note of in the title above.

2. By the similar orders passed by the Tribunal on the applications of the petitioner bank, the Tribunal has appointed practicing Advocates as Local Commissioners/Receivers to take over possession of the vehicles involved in each case, in respect whereof, loans were taken and there was default on the part of the respondents in repayments. The Local Commissioners/Receivers have been appointed in each of the cases for taking possession of the vehicles. The grievance of the petitioner is that in normal course, the Tribunal appoints the named officer of the petitioner to take possession of the vehicles. The appointment of the Advocate in such type of cases would defeat the purpose of the order inasmuch as by the time the Advocate would get information about the location of the vehicle, it is likely, the vehicle moves away and it may not be possible to take over the possession of a movable chattel like a vehicle. Moreover, the appointment of an Advocate on a handsome fee would also enhance the financial burden on the petitioner bank.

3. We find merit in the aforesaid submissions of the petitioner. In such cases, where the chattel/vehicle is itself offered as a security for procurement of the loan and there is default in repayment of the loan, it is the right of the lender bank to take possession of the chattel/vehicle. The lender bank is therefore entitled to take possession of the chattel/vehicle and it serves no purpose to appoint a practicing Advocate as Local Commissioner/Receiver. This would only cause logistic problems and lead to unnecessary expenditure on the lender bank, which, as it is, is sustaining a loss due to non-payment of the loan. In our view, in such type of cases, the Tribunal should invariably appoint the named officer of the lender bank as the Local Commissioner/Receiver to take over the possession from the defaulting borrower of the concerned chattel/vehicle. We, therefore, allow the present petitions and modify the impugned order passed by the Tribunal in each of these cases. The Local Commissioners/Receivers stand substituted by the officers of the petitioner bank in each of the aforesaid cases, as follows :

Sl. Writ OA Vehicle Details Registration Receiver No. Number Number Details Name

1. 620/2019 685/2018 Tandem Roller CC ORGI 671718 Krishna 425 Bali/ Prince Singh

2. 628/2019 731/2018 XUV 500/W6 DL-7CM 7972 Rajesh Lavania

3. 633/2019 688/2018 (02) Wet Mix ORG0100292 Krishna Pavera/ AP50W and Bali/Prince and Wheel ORG7180013 Singh loader/CLG 836 Wheel loader

4. 535/2019 687/2018 (02) Sensor ORG1004308 Krishna Paver/SP 500 Bali/Prince Capable Singh

5. 538/2019 686/2018 Batching Plant/HIJ ORG82806066 Krishna JCB/3DX SILO ORG0055405 Bali/Prince Wheel ORG387 Singh Loader/CLG835 ORG17EX194

4. The petitions stand disposed of accordingly.

5. Dasti.

VIPIN SANGHI, J A. K. CHAWLA, J JANUARY 21, 2019 rc