

Siddhartha Jain vs Union Of India & Anr on 28 October, 2021

Author: Prateek Jalan

Bench: Prateek Jalan

\$~55 (2021 Cause List)
* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 12252/2021
SIDDHARTHA JAIN Petitioner
Through: Mr. Gautam Singhal, Advocate
versus
UNION OF INDIA & ANR. Respondents
Through: Ms. Shruti Shiv Kumar, Advocate
for R-1
Mr. Varun Bedi, Advocate with
Mr. Santosh Kumar Singh (Zonal
Legal Manager Axis Bank) for R-
2.
CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN
ORDER

% 28.10.2021 The proceedings in the matter have been conducted through hybrid mode [physical and virtual hearing].

CM APPL. 38337/2021 (exemption) Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 12252/2021 with CM APPL. 38336/2021 (for stay)

1. Issue notice. Ms. Shruti Shiv Kumar, learned counsel, accepts notice on behalf of the respondent no.1. Mr. Varun Bedi, learned counsel accepts notice on behalf of the respondent no.2-Axis Bank ["the Bank"].

2. The petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution for extension of time to deposit certain amounts as directed by the Debts Recovery Tribunal ["DRT"] vide order dated 03.09.2021 in I.A.1259/2021 in SA No. 122/2020. The petitioner has filed an application for this purpose before the DRT. However, the application has not been taken up for hearing in view of the fact that the DRTs in Delhi are non-functional for want of Presiding Officers. It is in these circumstances that the petitioner has been compelled to approach this Court under Article 226 of the Constitution, and the writ petition is being entertained only for this reason.

3. The proceedings before the DRT concern measures taken by the respondent no.2-Bank against the petitioner under Securitisation and Reconstruction of Financial Assets and Enforcement of

Security Interest Act, 2002 ["SARFAESI Act"]. By the order dated 03.09.2021, the DRT directed as follows:-

" xxxx xxxx xxxxx The respondent bank shall not take any coercive action against the applicant during the pendency of this SA before this Tribunal, if the entire payment as mentioned in Section 13(2) of SARFAESI Act (50% deposited in the registry of Hon'ble High Court of Delhi + 50% to be paid to the respondent bank within 2 months) is made to the respondent bank.

IA no.1259/2021 is disposed of accordingly."

4. Mr. Gautam Singhal, learned counsel for the petitioner, submits that the petitioner has deposited 80 lakhs out of the sum of 1,60,19,718/- mentioned in the Bank's notice dated 12.06.2020 under Section 13(2) of the SARFAESI Act. As far as the balance amount is concerned, the petitioner has arranged for immediate deposit of a sum of 40 lakhs. However, he is not in a position to deposit the balance amount within the period of two months granted by the DRT, as he was suffering from respiratory failure and had to be admitted to hospital and placed in intensive care. The medical records annexed to the petition shows that he was discharged from the hospital only on 27.09.2021.

5. Mr. Varun Bedi, learned counsel for the respondent no.2-Bank, states that the Bank has also made an application for modification of the order dated 03.09.2021 which has been filed before the DRT and remains pending.

6. Having heard learned counsel for the parties, I am of the view that the petitioner is required to be granted a short extension of time in view of the medical emergency which he suffered in the interim. However, this is without prejudice to the rights and contentions of the Bank in its application for modification which will be considered on its own merits by the DRT.

7. The petition is disposed of with the direction that an amount of 40 lakhs be deposited with the Bank by 02.11.2021. Out of the balance amount of 40,19,718/-, a further sum of 20 lakhs be deposited by 22.11.2021 and the balance amount by 13.12.2021. Other than extending the timeline for deposit, as stipulated in the order dated 03.09.2021, this Court has not examined any other issue in controversy between the parties. The modification sought by the respondent no.2-Bank may be considered by the DRT in accordance with law.

8. In the event of any default in any of the instalments directed by this order, the interim order granted by the DRT will stand automatically vacated.

9. The writ petition, alongwith the pending application, stands disposed of in these terms.

PRATEEK JALAN, J OCTOBER 28, 2021/'j'