

Ashish Tiwari vs Union Bank Of India on 15 September, 2021

Author: Prateek Jalan

Bench: Prateek Jalan

\$~134 (2021 Cause List)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 10223/2021

ASHISH TIWARI

..... Petiti

Through: Mr. Kushagra Bansal, Advocate.

versus

UNION BANK OF INDIA

..... Respondent

Through: Mr. OP Gaggar, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 15.09.2021 The proceedings in the matter have been conducted through hybrid mode [physical and virtual hearing].

CM APPL. 31511/2021 (for exemption) Exemption allowed, subject to all just exceptions. This application stands disposed of.

W.P.(C) 10223/2021 & CM APPL. 31512/2021 (for stay)

1. Issue notice. Mr. O P Gaggar, learned counsel, accepts notice on behalf of respondent.

2. The petitioner is a party to a tripartite agreement dated 16.04.2016 executed by him, the Bank and one M/s Unnati Fortune Holdings Ltd., the builder of the property, in respect of which a loan was taken by the petitioner. The petition concerns the respective liabilities of the borrower and the builder under the said tripartite agreement.

3. Mr. Kushagra Bansal, learned counsel for the petitioner, submits that the Bank has instituted proceedings before the Debts Recovery Tribunal ["DRT"] being O.A. No. 38/2019 for recovery of the amounts in question and has also filed complaints under Section 138 of the Negotiable Instruments Act, 1881 against the petitioner. The petitioner is at liberty to take such remedies against any orders passed in those proceedings as may be available to him in law.

4. Mr. Bansal cites an order of the Division Bench of this Court dated 25.08.2021 in W.P.(C) 9010/2021 in which proceedings in three original applications before the DRT have been stayed. He submits that the facts of the said petition are similar to the facts of the present petition. The petitioner is at liberty to place on record a copy of the petition in W.P.(C) 9010/2021, in support of

his contention.

5. It is stated both by Mr. Bansal and Mr. Gaggar that no measures under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ["SARFAESI Act"] have yet been taken against the petitioner. In the event the Bank takes any measures under the SARFAESI Act, it will be open to the petitioner to take his statutory remedies under the same, notwithstanding the pendency of the present petition.

6. Counter affidavit may be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

7. List on 25.10.2021.

PRATEEK JALAN, J SEPTEMBER 15, 2021 'vp' /