

Indu Kapoor vs Au Small Finance Bank & Anr on 20 December, 2022

Author: Najmi Waziri

Bench: Najmi Waziri

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 14316/2022 & CM APPL. 43727/2022
INDU KAPOOR

Through: Mr. Sanjeev Bhandari
(Amicus Curiae)

versus

AU SMALL FINANCE BANK & ANR. Respondent

Through: Mr. Vishnu Vaysanal, Mr. Samresh
Kumar, Advocate for R-1.
Mr. Kirtiman Singh, CGSC with
Vidhi Jain, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI
HON'BLE MR. JUSTICE GAURANG KANTH
ORDER

% 20.12.2022 The hearing has been conducted through hybrid mode (physical and virtual hearing).

W.P.(C) 14316/2022

1. An affidavit has been supplied to Mr. Kirtiman Singh, the learned Standing Counsel by the Ministry of Finance, Department of Financial Services. He submits that perhaps another affidavit with better particulars could be filed. Therefore, he would need to take instructions especially in terms of paragraphs 3 to 8 of the previous order. Relevant paragraphs are reproduced under:

"3. The court is informed that ordinarily over 100 cases were being listed before any DRT in Delhi even before the DRT at Allahabad. There would be no dispute to the fact that substantive disposal of cases would be impeded if simply the listed 100 cases were to be called out, only to be adjourned due to paucity of time. An affidavit has been filed on behalf of the respondent no.3, Department of Financial Services, Ministry of Finance Government of India specifying the total number of pending cases and their corresponding monetary value before each of the three DRTs in Delhi as under:-

"...2(i). The total number of pending cases along with quantum of money involved before the DRTs in Delhi as per data available in e-DRT system is mentioned below:-

S. No.	Name of DRT	OA Pending as on 14.11.2022 Number of cases	Amount (Rs. crore)
1	DRT-1 Delhi	6129	20278.92
2	DRT-2 Delhi	3247	25541.07
3	DRT-3 Delhi	2566	355836.27
	Total	11942	401656.26

4. What is evident from the above is that the large pendency needs to be addressed, in the first instance, by ensuring that the vacancies are promptly filled up so that the claimed monies are freed-up to be made freely available in the stream of commerce for the augmentation of the economy. It cannot be possible for DRT-I, II & III having 6129, 3247 and 2566 cases respectively, to dispose of the cases in the six months' time which is envisaged under the section 19(24) of Recovery and Debts and Bankruptcy Act, 1993 and three months' time which is envisaged under section 17(5) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 Act.

5. The data submitted by the Registrar, DRAT under the directions of this court on 22.11.2020 shows the pendency before the three DRTs as under:-

Prior to the Gazette Notification dated 04.10.2022 DRT-I, DRT-II, DRT-III, Delhi
Delhi Delhi Total 8104 4156 4634 number of cases Total 186375.82 214028.58
97458.20 amount involve d (Rs.

in Cr.) "...As per the above notification, DRT-III, Delhi has been directed to try the cases of above Rs.100 crores and as per the data available, approx. total number of cases (OA/SA) of above Rs.100 crores will be 718 involving Rs.424025.41 crore.

DRT- wise list of total number of pending OAs and SAs of Rs. 100 Crores and above at different DRTs under the jurisdiction of DRAT, Delhi.

	No. of Cases	Amount (Rs. Cr.)
DRT-I, Delhi	13	4274
DRT-II, Delhi	09	2210
DRT-III, Delhi	650	40301
Chandigarh DRT-II, Chandigarh	16	2454

DRT-III, Chandigarh	29	11122.81
DRT, Jaipur	01	943.49

After the above Gazette notification, DRTs are in the process of transferring the cases to the respective DRTs in the light of change of jurisdiction and the exact figure can be ascertained only after completion of the process of transfer."...

6. The number of Tribunals, presently functioning would need to be augmented to facilitate quicker disposal of roughly about 17,000 cases (16,894 to be precise), pending before the three DRTs in Delhi.

7. The notification dated 04.10.2022 has been stayed by the Bombay High Court in W.P (C) 11164/2022 on 17.11.2022, therefore, in the first instance, the pendency of number of cases before the DRT-I, II & III will be taken as figures mentioned in the report from the Registrar, DRAT, Delhi. The pendency of cases is about 17,000 and for a claim value of Rs.497,861 lakh crores (USD 62 billion). With these figures in mind and in the larger public interest, the Government may consider urgently augmenting the number of Tribunals and equip them with adequate infrastructure to function efficiently and to discharge their duties.

8. Mr. Sanjeev Bhandari, the learned Amicus Curiae, submits that presently DRT-II is not functioning and its additional charge has been handed over to the DRT-III, thus doubting the pendency before the DRT-III to 8790 cases. Let the matter be examined by the Ministry of Finance apropos filling up of the vacancies as well as creation of additional DRTs. The learned Amicus Curiae submits that looking at the number of pending cases and fresh cases being filed, it would be in the fitness of things that at least 10 DRTs be made functional in Delhi. He submits that space available on the third floor of the same building where the present DRTs are functioning i.e., 4thFloor, Jeevan Tara Building, Sansad Marg, Janpath, Connaught Place, New Delhi, Delhi 110001, the new DRTs if created could be located in the said vacant space..."

2. The learned Amicus Curiae states that about 10 to 15 Tribunals should be constituted and made functional in Delhi so as to address the pendency of cases as well as to adjudicate on the number of fresh cases being filed on a daily basis. He submits that this augmentation is especially necessary in the context of the time bound disposal of matters as envisaged in the relevant statutes.

3. Let the Secretary of the Ministry of Finance, Department of Financial Services look into the matter apropos the issues highlighted and the concerns of the court and litigants, with respect to i)

the provision of court rooms and facilities amenable for efficient conduct of court proceedings and ii) for augmentation of the number of Tribunals in the context of large pendency of cases and large quantum of monies lying locked in litigation. Let a comprehensive affidavit be filed by a Joint Secretary with prior approval of the Secretary of the said Department/Ministry.

4. The learned Amicus Curiae has filed some photographs drawing our attention to the unfortunate physical state of the court rooms of the three DRTs in Delhi. Some of the photographs are reproduced hereunder:

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13:57:41 KUMAR Signing Date:22.12.2022 13:57:41 KUMAR Signing
Date:22.12.2022 13:57:41

5. The state of affairs shown in the photographs cannot be considered of a forum's conducive discharge of responsibility of adjudication by a Presiding Officer. It is more of a dump of files and records from which retrieval of cases would not be an easy task. Let the Registrar, DRAT file a Status Report apropos renovation work, if any, being carried out for re-creation of the amenable court rooms so as to facilitate the conduct of meaningful proceedings. The report shall also address i) the issue of storage/disposal records of disposed-off cases after digitisation of the same, as may be, as well as ii) the e-filing of petitions. This report is sought in the context of the photographs showing that the files and records are stacked in court rooms themselves and have taken up most of the space leaving hardly any space for lawyers and litigants to appear before a functional Tribunal.

6. Renotify on 07.02.2023.

NAJMI WAZIRI, J GAURANG KANTH, J DECEMBER 20, 2022/j/sd