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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **RFA 99/2020**

NAKUL VIJAppellant

Through: Mr. Sanjay, Advocate

versus

ANUKUL VIJRespondent

Through: Appearance not given

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

03.09.2024

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1. Once again, a request for adjournment is made on behalf of the Appellant.
2. Learned Counsel for the Appellant submits that he needs some more time to comply with the order dated 02.08.2024.
3. Learned Counsel for the Respondent submits that he has filed his written synopsis alongwith Judgments as well as orders of the Debt Recovery Tribunal [hereinafter referred to as "DRT"].
 - 3.1 The Written synopsis, however, is not on record. On steps being taken, let the same be taken on record.
4. Learned Counsel for the Respondent submits that the Impugned Judgment dated 16.09.2019 has been passed in a suit for partition filed by the Appellant against the Respondent, both of whom are brothers. It is further contended that the Impugned Judgment was passed on the basis of an objection taken by the Respondent before the learned Trial Court, that the



suit is barred under the provisions of Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and that the Plaint should be rejected, under Order VII Rule 11 of the Code of Civil Procedure, 1908.

5. Learned Counsel for the Respondent submits that the Impugned Judgment does not suffer from any infirmity since a charge on the premises bearing No. 578/6, Gali Ghanteshwar, Katra Neel, Ward No. II, Chandni Chowk, Delhi, 110006 [hereinafter referred to as the “subject premises”] was taken by the Punjab and Sind Bank and that the charge is still in force. He further submits that it is necessary to implead the Bank as a party in the present Appeal for an effective adjudication thereof.

5.1 Learned Counsel for the Respondent further submits that the proceedings before the DRT are still pending and that the Appellant is not appearing in the said proceedings.

6. Learned Counsel for the Appellant on the other hand contends that the proceedings *qua* the Bank are not relevant as a “no dues certificate” was issued by the Bank.

7. The suit was filed in the learned Trial Court for partition of the subject premises, which was dismissed by the learned Trial Court in view of the objection of the Respondent as set out in paragraph No.4 above.

8. Since the genesis of the *lis* appears to be with respect to a loan facility agreement taken by the parties in respect of the subject premises, it is deemed necessary to implead the Bank in the present proceedings. Accordingly, Punjab and Singh Bank, Fountain Branch, Chandni Chowk, Delhi is pleaded as a party to the present proceedings.

8.1 Amended memo of parties be filed by the Appellant within a week.



9. On steps being taken, let Notice be issued to newly impleaded Respondent, Punjab and Sind Bank, Fountain Branch, Chandni Chowk, Delhi.

9.1 The Respondent/Bank shall file an Affidavit with respect to the subject property within 4 weeks of its service.

10. List on 23.10.2024.

11. In the meantime, the Appellant shall comply with the order dated 02.08.2024.

12. Parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

SEPTEMBER 3, 2024/pa

Click here to check corrigendum, if any