05.03.2024
Court No. 19
Item no.44
CP

C.O. No. 526 of 2024

Shri Umang Kejriwal & Anr.
Vs.
State Bank of India & Ors.

Mr. Saktinath Mukherjee, Sr. Advocate
Mr. Joydip Kar, Sr. Advoate
Mr. Aniruddha Chatterjee
Mr. Paritosh Sinha
Mr. Siddhartha banerjee
Ms. Sarita Sinha
Ms. Soni Ojha
Ms. Sambrita B. Chatterjee

.....for the petitioners.

The question to be decided in this revisional application is whether the proviso to Sub-Section (5) of Section 19 of the Recovery of Debts and Bankruptcy Act, 1993, which is phrased in a language similar to Order 8 Rule 1 of the Code of Civil Procedure, should also be treated to be directory in view of the decisions in Salem Advocate Bar Association (2) vs. Union of India, reported in (2005) 6 SCC 344 and Kailash vs. Nanhku, reported in (2005) 4 SCC 480 or the loan transaction being a commercial transaction, the time to file written statement should be treated as mandatory.

Mr. Mukherjee, learned senior advocate appearing on behalf of the petitioners, urges that when a penal consequence is not provided, the proviso loses its mandatory character.

Let there be stay of all further proceedings in the O.A. No. 216 of 2018, which is pending before the learned Debt Recovery Tribunal-1, Kolkata, upto June 30, 2024, or until further orders whichever is earlier.

Let this matter appear on April 12, 2024, at 10.30 am.

Let a copy of the revisional application along with the server copy of this order be served upon the learned advocate appearing on behalf of the opposite parties.

Affidavit of service to be filed on the next date.

**(Shampa Sarkar, J.)**