(2020) 06 DRT CK 0007

In the Debts Recovery Tribunal

Case No : Original Application No. 179 Of 2015

Indian Overseas Bank APPELLANT

Vs

M/s. Sri Vasavi Agencies., And Ors. RESPONDENT

Date of Decision : 08-06-2020

Acts Referred:

Recovery of Debts Due to Banks and Financial Institution Act, 1993 — Section 19(2), 19(20)Code Of Civil Procedure, 1976 — Section 34
Debts Recovery Tribunal (Procedure) Rules, 1993 — Rule 2(c), 16

Citation : (2020) 06 DRT CK 0007

Hon'ble Judges : Dr. N.V Badarinath, J

Bench : Single Bench

Final Decision : Allowed

Judgement

1. This application is filed by the applicant bank under Section 19(20) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 against the defendants 1 to 9, jointly & severally, for recovery of an aggregate sum of Rs. 5,69,24,952/- (Rupees Five Crores Sixty Nine Lakhs Twenty Four Thousand Nine Hundred Fifty Two Only) consisting of:-

i) Rs.3,16,56,802/- (Rupees Three Crores Sixteen Lakhs Fifty Six Thousand Eight Hundred Two Only) being the amount due under Cash Credit account together with interest @16.75% p.a. compounded with monthly rests;

ii) Rs.2,30,91,336/- (Two Crores Thirty Lakhs Ninety One Thousand Three Hundred Thirty Six Only) being the amount due under Packing Credit account, together with interest @13% p.a. compounded with monthly rests;

iii) Rs.21,76,814/- (Rupees Twenty One Lakhs Seventy Six Thousand Eight Hundred Fourteen Only) being the amount due under Horticulture Loan, together with interest @14.50% p.a. compounded with monthly rests; from the date of filing of the application till the date of realization in full, for sale of the mortgaged immovable properties more fully described in the Schedule under Item Nos. I to

XX, along with costs of this application.

2. Brief facts of the application:

2.1 First defendant is a Partnership Firm carrying on the business of Onion Export wherein, the defendants 2 & 3 are the Partners. The defendants 2 & 3 on behalf of the 1 st defendant approached the applicant bank for financial assistance for their business. Considering their requests and business status of the 1st defendant, the applicant vide it's Sanction Credit Advice on 07.06.2007 sanctioned a Sum of Rs. 43,00,000/- towards Cash Credit Limit and Rs.50,00,000/- (Sub-Limit of FDDBP Rs.20,00,000/-) towards Packing Credit Limit. Having availed the above credit facilities, the 1st defendant through defendants 2 & 3 executed loan documents separately on 14.06.2007 for each facility such as Demand Promissory Note, Letter of Continuity, Letter of Hypothecation of Stocks and Agreement relating to Advances against Goods awaiting shipment (for PCL of Rs.50 lakhs only) in favour of applicant. For the aforesaid credit facilities sanctioned to the first defendant, defendants 2 to 8 agreed to stand as guarantors.

2.2 The aforesaid facilities are collaterally secured by the immovable properties belonging to the defendants 2 to 8. Accordingly, these defendants on 19.06.2007 deposited the Title Deeds pertaining to their concerned immovable properties and more fully described as Item Nos. I to XVI in the Schedule to the OA with the applicant bank with an intention to create Equitable Mortgage in favour of the applicant as Collateral Securities for the credit facilities sanctioned to the 1st defendant. Further, the defendants 2 to 8 on 20.06.2007 executed Letter evidencing Deposit of Title Deeds in favour of the applicant.

2.3 Subsequently, the 1st defendant through its Partners, requested the applicant to sanction fresh Credit Limit under Bills Purchase Limit. Considering their request, the applicant on 04.08.2007 sanctioned the credit facility of Rs.20.00 lakhs under the Bills Purchase / Discount limit in favour of the 1st defendant for its business purpose. In consideration thereof, the defendants 2 & 3 on behalf of 1st defendant on 04.08.2007 executed the documents such as Demand Promissory Note, Letter of Hypothecation of Bills and Letter of Hypothecation for securing machineries / Vehicles / Goods / Book Debts for Rs.113.00 lakhs (executed by 1st defendant). The defendants 2 to 8 offered their personal guarantees for the aforesaid credit facilities and also extended the existing equitable mortgages, in respect of the properties described under Item Nos. I to XVI in the schedule hereto.

2.4 At the request of the first defendant, the existing Packing Credit Limit of Rs.50.00 lakhs was enhanced to Rs.100.00 lakhs on 21.06.2010. The defendants 2 and 3 on behalf of 1st defendant on 21.06.2010 executed the documents such as Demand Promissory Note, Letter of Continuity for Rs.50.00 lakhs, Agreement relating to Advances against goods awaiting shipment and Letter of Hypothecation for securing machineries / Vehicles / Goods / Book-debts for

Rs.253 lakhs. Further defendants 2 to 8 extended the existing Equitable Mortgages in respect of the properties described under Item Nos. I to XVI in the schedule to the OA for the enhanced Packing Credit Limit.

2.5 Again on 28.02.2011 the existing Cash Credit limit availed by the 1st defendant was enhanced to the tune of Rs.112 lakhs from Rs.43 lakhs. The 1st defendant through defendants 2 and 3 on 28.02.2011 executed the documents such as Demand Promissory Note for CCL of Rs.69.00 lakhs, Letter of Continuity for Rs.69.00 lakhs, and Letter of Hypothecation for securing machineries / Vehicles / Goods / Book-debts for Rs.286.19 lakhs. The defendants 2 to 8 offered their personal guarantee for the above said credit facilities and also extended the existing Equitable Mortgages in respect of the properties described under Item Nos. I to XVI in the schedule to the OA for the enhanced Limits. Further, the 9th defendant agreed to stand as Guarantor for the above said credit facilities. In addition, defendants 2, 3, 8 & 9 agreed to provide their properties more fully described as Item Nos. XVII to XIX in the schedule as additional security for the aforesaid credit facilities. As such the defendants 2, 8 and 9 on 28.02.2011 deposited the title deeds pertaining to their respective immovable properties and more fully described as Item Nos. XVII to XIX in the schedule to the OA with the applicant with an intention to create Equitable Mortgage in favour of the applicant as collateral securities.

2.6 At the request of 1st defendant, the existing Cash Credit was enhanced from Rs.112 lakhs to Rs.150 lakhs and Packing Credit Limit was enhanced from Rs.100 lakhs to Rs.125 lakhs on 29.05.2012. The 1st defendant through defendants 2 & 3 on 07.06.2012 executed the documents such as Demand Promissory Notes for CCL of Rs.38.00 lakhs (i.e., CCL enhanced from Rs.112 to 150.00 lakhs) & D.P. Note for PCL of Rs. 25.00 lakhs (i.e, enhanced from 100.00 to Rs.125.00 lakhs), Letter of Continuity, Letter of Hypothecation of Book-Debts for Rs.150.00 lakhs, Letter of Hypothecation for securing Machineries, Vehicles, Goods & Book-Debts for Rs.349.19 lakhs respectively. The defendants 2 to 9 offered their personal guarantee for the aforesaid credit facilities and also extended the existing Equitable Mortgages in respect of the properties described under Item Nos. I to XIX in the schedule to the OA for the enhanced Limits by executing confirmation letter dated 08.06.2012.

2.7 Subsequently, at the request of the first defendant, the applicant on 27.11.2012 enhanced the existing Cash Credit Limit from Rs. 150 lakhs to Rs.230 lakhs and the existing Packing Credit Limit from Rs.125 lakhs to Rs.150 lakhs. On 27.11.2012, the 1st defendant through defendants 2 & 3 executed the documents such as Demand Promissory Notes for CCL of Rs.80 lakhs (i.e., CCL enhanced from Rs.150 to 230 lakhs) and PCL of Rs. 25 lakhs (i.e., enhanced from Rs.125 lakhs to Rs.150 lakhs), Letter of Continuity, Letter of Hypothecation of Stocks for Rs.80 lakhs, Supplemental Deed of Hypothecation for Rs.400 lakhs and Agreement relating to Advances against Goods awaiting shipment. The defendants 2 to 9 offered their personal guarantee for the aforesaid credit facilities by executing personal guarantee agreements on 27.11.2012 for a sum of Rs.1075.00 lakhs in favour of the applicant and also extended the existing Equitable Mortgages in respect of the properties described under Item Nos. I to XX in the schedule to the OA, for the enhanced Limits.

2.8 In addition to the existing credit facilities availed by the 1st defendant to the tune of Rs.230 lakhs, as stated supra, the 1st defendant requested the applicant to sanction Adhoc Credit facilities under Cash Credit Limit and Packing Credit Limit. Considering the request of 1st defendant, the applicant bank sanctioned a sum of Rs.50.00 lakhs under Adhoc Cash Credit Limit and a sum of Rs.37.50 lakhs under Adhoc Packing Credit Limit for the period of 90 days. Having accepted the aforesaid Adhoc Credit Limits, the 1st defendant through defendants 2 & 3 on 16.03.2013 executed the documents such as Demand Promissory Notes for Adhoc CCL of Rs.50.00 lakhs and Adhoc PCL of Rs. 37.50 lakhs, Letter of Continuity, Letter of Hypothecation of Stocks & Hypothecation of Book-Debts for Rs.50.00 lakhs, Supplemental Deed of Hypothecation for Rs.87.50 lakhs, Letter of Hypothecation for securing Machineries, Vehicles, Goods & Book-Debts for Rs.487.50 lakhs and Agreement relating to Advances against Goods awaiting shipment for a sum of Rs.37.50 lakhs. Defendants 2 to 9 extended their personal guarantee for the aforesaid Adhoc Credit facilities and also extended the existing Equitable Mortgages in respect of the properties described under Item Nos. I to XIX in the schedule to the OA, for the Adhoc Credit Limits.

2.9 Subsequently, the 1st defendant through defendants 2 & 3, requested applicant bank to provide financial assistance for gardening / landscaping at open space available at their godown premises situated at Survey Nos. 41/1, Chickhasala, K.N.S. Post, Kolar Taluk & District. Considering the request of 1st defendant, the applicant on 26.04.2013 sanctioned a sum of Rs.25.00 lakhs under Urban Horticulture Loan. Having accepted the aforesaid credit facility, the 1st defendant through defendants 2 & 3 on 26.04.2013 executed documents such as D.P Note, Letter of Undertaking to repay the loan amount in 36 EMI of Rs.83,634/- each commencing from 31.05.2013 and Agreement of Hypothecation for Agricultural Loan. Defendants 2 to 9 extended their personal guarantee for the aforesaid Horticulture Loan by executing Personal Guarantee Agreements for a sum of Rs.512.00 lakhs on 27.04.2013 and also extended the existing Equitable Mortgages in respect of the properties described under Item Nos. I to XX in the schedule hereto, by executing confirmation letter dated 26.04.2013. Further defendants 2, 3 and 5 to 9 deposited the original title deeds pertaining to Item Nos. I to XIX of the schedule properties with the applicant bank with an intention to create Equitable Mortgages in favour of the applicant as the securities for the aforesaid various credit facilities sanctioned to the 1st defendant.

2.10 The defendants 2 to 5 are also Directors of a Private Limited Company known as M/s. Bharani Trading Company Private Limited. The Company availed credit facilities from the applicant bank. As a security thereof, the defendants 2 to 9 have extended their existing mortgages in respect of the immovable properties described as Item Nos. I to XI in the Schedule to the OA in favour of the applicant as collateral securities for the credit facilities sanctioned to them. Therefore, the mortgaged properties, described as Item Nos. I to XX in the Schedule to the OA as securities for the credit facilities sanctioned to M/s. Bharani Trading Company Private Limited and the original documents coming under Ex. A48 to Ex.A83 are available in the O.A. No.183/2015.

2.11 The 1st defendant did not repay the amount covered under the Adhoc credit facilities limit within the stipulated period of 90 days. Further, the 1st defendant has fully utilized the aforesaid credit facilities sanctioned by the applicant bank. On the one side, they were highly irregular in repaying the credit amounts and on the other side, the liabilities of the defendants are mounting up without any remittance. At one stage, the 1st defendant had abruptly stopped entire transaction in their credit accounts. Hence, the 1st defendant credit accounts were classified as NPA on 31.12.2013 as per the guidelines of RBI. The applicant bank issued Demand Notice on 28.01.2014 by invoking SARFAESI Act calling upon the defendants to pay their liability. Having received the demand notice, none of the defendants preferred any reply nor came forward to pay any amount.

2.12 Thus, the first defendant being a Partnership Firm, who is the principal borrower and the defendants 2 to 9 having offered their personal guarantee for the credit facilities sanctioned to the 1st defendant, all the defendants are jointly and severally liable to pay the claim amount. Thus the defendants are jointly and severally liable to pay a sum of Rs.5,69,24,952/- as per the Statement of Accounts:-

i) Rs.3,16,56,802/- (Rupees Three Crore Sixteen Lakhs Fifty Six Thousand Eight Hundred Two Only) being the amount due under Cash Credit account, together with interest @16.75% p.a. compounded with monthly rests;

ii) Rs.2,30,91,336/- (Two Crore Thirty Lakhs Ninety One Thousand Three Hundred Thirty Six Only) being the amount due under Packing Credit account, together with interest @13% p.a. compounded with monthly rests;

iii) Rs.21,76,814/- (Rupees Twenty One Lakhs Seventy Six Thousand Eight Hundred Fourteen Only) being the amount due under Horticulture Loan, together with interest @14.50% p.a. compounded with monthly rests; all the above amount fall dues from the date of filing this application till the date of realization.

3. Brief averments of Reply Statement filed by D-1 & D-3 and adopted by D-2, D-4 to D-9

3.1 Third defendant filed reply statement on his behalf and in the capacity as Partner of the 1st defendant company. Defendants 2, 4 to 9 filed memo adopting the reply statement filed by D-1 and D-3.

3.2 It is stated that the defendant specifically denies all averments contained in the above OA except those that are expressly admitted as true and the applicant is put to strict proof of the alleged facts and claims made in the O.A. It is stated that the above O.A is not maintainable either in law and on facts, it is defective as it is bad for misjoinder of cause of action and hence, it is liable to be dismissed in-limine. It is stated that the 1st defendant is a Partnership Firm carrying on the business of Onion Export wherein, the defendants 2 & 3 are the Partners. Further, defendants 2 to 8 have deposited the Title Deeds and the defendants 1 to 3 are running onion export business in the name and style of Sri Vasavi Agencies and Bharani Trading Co. (Pvt.) Ltd. Thefinancial assistance for the above business sanctioned to the defendants are primarily secured by the schedule mentioned property for a Cash Credit Limit of Rs.43.00 lakhs and Packing Credit Limit of Rs.50.00 lakhs (Sub-limit of FDDBP of Rs.20 lakhs).

3.3 It is stated that while admitting various credit facilities availed by the defendants as separate entities from the applicant bank under different heads, they dispute the alleged claim made in the above O.A, clubbing of loans under different heads availed by the defendants as in different capacities, the details of claim and rate of interest etc., as specified in the application and the truth and validity of the documents filed and relied on by the applicant for enforcing the claim against these defendants.

3.4 It is stated that the statement of accounts filed by the applicant does not reflect the correct figure since, it was not calculated at the interest rate agreed upon and the payments made by the defendants were not properly credited into their respective loan accounts. So in such circumstances, the statement is not acceptable. It is stated that during such proposal, the defendants paid some amounts to the applicant bank in which they acknowledged and received the same but not properly mentioned the same in the above O.A. In the meantime, the defendant also submitted their revival proposal and requested the applicant bank to consider the same and the same is under consideration by them.

3.5 It is stated that the defendants are not willful defaulters. Only because of the natural phenomenon as stated above, they were driven to such a critical situation, from which they could be relieved better, if the applicant bank comes forward either to reschedule the said loan account or accepts the OTS proposal of the defendants in the above backdrop. It is submitted that the above O.A has not been framed according to the law, and it suffers from misjoinder of cause of action as well as deficiency of Court fees. Moreover the claim made against the defendants in the above application is false and incorrect. Hence it is liable to be dismissed.

4. Despite sufficient opportunity as defendants did not choose to file CPA, opportunity to file CPA was closed on 21.04.2017.

5. In the light of the contest aforesaid, the points that arise for consideration are:

(i) Whether the applicant has established its claim against the defendants? If so, for what amount?

(ii) Whether the applicant is entitled is for pendent lite and future interest and if so, at what rate?

6. Point (i)

Whether the applicant has established its claim against the defendants? If so, for what amount?

6.1. The applicant bank in its endeavour to establish its claim against the defendants examined its official as AW1 and got marked exhibits Ex. A-1 to A-87. Ld. Counsel for Applicant placing reliance on the proof affidavit of AW-1, besides Exhibits A-1 to A-87 strenuously contended that the claim of the applicant stands established, as such, the applicant is entitled for a recovery certificate. Ld. Counsel, further submitted that in the Reply Statement filed by the defendants, the defendants have categorically admitted approaching the applicant bank for sanction of Cash Credit Limit of Rs.43 lakhs and Packing Credit Limit of Rs.50 lakhs for their business purpose and the said admission, being clear and categorical, the applicant is entitled for the Recovery Certificate, basing on the admission itself. In so far as the contest of the defendants that clubbing of loans availed under different heads in different capacities is impermissible, it is stated that the claim is maintainable, in as much as the guarantors / borrowers are common in respect of all the facilities availed. Thus submitting, Ld. Counsel prayed for allowing the OA.

6.2 Ld. Counsel for the defendants would contend that the defendants have availed various credit facilities as separate entities from the applicant bank under different heads and hence the alleged claim made in the above OA is disputed. Ld. Counsel further submitted that clubbing of loans under different heads availed by the defendants in different capacities, the details of the claim and rate of interest etc., as specified in the application and the truth and validity of the documents filed and relied on by the applicant bank for enforcing the claim against defendants are disputed. It is further contended that the statement of accounts filed by the applicant bank does not reflect the correct figure as the payments made by the defendants were not properly credited into the respective loan accounts. It is further argued that the documents filed by the bank have not established the claim of the applicant. Thus submitting, the defendants prayed for dismissal of OA.

6.3 In the light of the contest as aforesaid, I have carefully perused the record and taken into consideration the submissions made by the respective counsels for both sides. As can be seen from the reply statement, the defendants have not denied availing of credit facilities and also execution of necessary loan and security documents. However, the defense of the defendants appear to be that that the cause of action for each claim being independent and for the purpose of the jurisdiction only they were clubbed and the present claim is filed is concerned, I am afraid the said contention put forth by the defendants is not sustainable in view of the ruling of judgment of the Hon'ble DRAT, Allahabad in the matter of State Bank of India Vs. Ajay Automobiles & Ors, reported in II (2019) RC 170 (DRAT) wherein it is held that

"So far as clubbing of both these loans in single Original Application is concerned, I am of the firm view that the Bank has not committed any irregularity in filing the claim in such a manner. Section 19(2) of the RDDBFI Act provides that even if other Banks or financial institutions claim to recovery its debt against the same person later Bank / financial institution may also joint the applicant bank at any stage of the proceedings. There is no requirement that the later institution should have charged over the same security. This provision is made to avoid multiplicity of litigation against the same borrower. Thus, when consolidation of loans is allowed under the law even if separate institutions are involved, then the consolidation by the one Bank of two or more loans belonging to borrowers cannot be declined on the ground that separate cause of action has arisen. There is no requirement that all the loans should have been covered by charge over the same security as laid down by the Hon'ble Kerala High Court in the matter of Indian Overseas Bank V. Registrar, Debts Recovery Tribunal (supra). If the guarantors are separate in separate loan accounts, their liability can be segregated on the basis of the loan documents executed by them and they may be held responsible to that extent only"

6.4 It is pertinent to note that none of the defendants choose to file their Counter Proof Affidavit, despite sufficient opportunity. Here it is to be stated that as per the scheme of adjudication of claims under the RDB Act, parties shall file their respective affidavits in support of their claim or counter claim as the case may be and the Tribunal shall on the basis of the affidavits filed adjudicate and decide the claim or counter claim. In so far as the case on hand is concerned, as the defendants despite sufficient opportunity failed to file Counter Proof Affidavit, the contentions put forth in the reply statement remain unsubstantiated and the claim put forth by the applicant bank remain unrebutted.

6.7 Barring the above said plea, no other plea worth has been raised by the defendants. Therefore, in the light of the discussion as aforesaid and on careful perusal of Exhibits A-1 to A-87 and on careful consideration of the submissions made by the Ld. Counsel for both sides, the Tribunal is satisfied that the applicant has established its claim. This point is answered accordingly.

7. Point No.2

Whether the applicant bank is entitled for pendent lite and future interest, if so, at what rate?

7.1 In terms of Sec. 19 (20) of the RDB Act, the Tribunal has been empowered to pass an order regarding payment of interest from the date on or before which payment of the amount is found due, up to the date of realisation or only payment, as it think fit to meet the ends of justice.

7.2 Hon'ble Supreme Court, in its recent judgement (reported in II 2009 BC pg.

696) in the matter of State Bank of India - Vs - Sarath Textiles, held that "Sec. 19 (20) of the RDDB & FI Act confers discretion on the Tribunal to award interest on the applicant being as it thinks fit to meet the ends of justice."

7.3 Hon'ble Supreme Court of India in the matter of Central Bank of India - vs - N. Raveendra (reported in 2002 [1] SCC pg. 367) held that "Sec. 34 of CPC confers discretion on the Court to award or not to award interest or to award interest at such rate as it deems fit de-horse notwithstanding the contract between the parties." Sec. 19 (20) of the RDDB & FI Act is akin to Sec. 34 CPC.

7.4 While it is the case of the applicant that the applicant bank is entitled for contractual rate of interest till discharge of the entire outstanding dues, however, the defendants would contend that as the subject loan is availed for business and the defendants have paid part amount, in so far as pendente lite and future interest is concerned, the contractual rate of interest may not be applied. It is to be stated that the claim of the applicant bank includes the rate of interest and other charges payable as per the contract. The Tribunal already held that the applicant bank is entitled for the amount claimed in the OA. Therefore, under these circumstances, the Tribunal is inclined to grant pendente lite and future interest @ 13%p.a. (simple) in respect of Cash Credit facility, @10% p.a. (simple) in respect of Packing Credit Account, @ 11% p.a. (simple) in respect of Horticulture Loan Account on the OA claim amount from the date of filing till the date of realization. Point No.2 is answered accordingly.

8. For the reasons stated as above, I find that the applicant bank has successfully proved its OA claim against the defendants and it is held that the applicant bank is entitled for a Recovery Certificate for the amounts claimed in the OA with pendente lite and future interest @ 13%p.a. (simple) in respect of Cash Credit facility, @ 10% p.a. (simple) in respect of Packing Credit Account, @ 11% p.a. (simple) in respect of Horticulture Loan Account jointly and severally from the defendants 1 to 9, from the date of the application till the date of realization. The defendants 2 to 9 are also personally liable for the OA claim to the extent specified hereunder.

9. During the pendency of OA, applicant bank had reported part satisfaction of the OA claim in the connect OA No.183/2015 wherein securities offered by the defendants are common for both the cases. Accordingly, part satisfaction of sum Rs.69,88,141.01p by way of Sale of Item VI of schedule and a sum of Rs.3,31,00,000/- by way of sale of Item I to V of schedule under SARFAESI Act was recorded in connect OA No.183/2015. The original documents pertaining to aforesaid properties viz., Ex A-80 (Item VI) Ex A76 to A-79 (Item I to V) were returned to the applicant bank on 22.02.2019 and 12.03.2020 respectively.

10. In the result, application is allowed as under:

(a) The applicant is entitled to recover against the defendants, jointly and severally, for recovery of a total sum of Rs. 5,69,24,952/- (Rupees Five Crores Sixty Nine Lakhs Twenty Four Thousand Nine Hundred Fifty Two Only) consisting of:-

i) Rs.3,16,56,802/- in respect of Cash Credit account together with interest @ 13% p.a.(simple);

ii) Rs.2,30,91,336/- in respect of Packing Credit account together with interest @ 10% p.a.(simple);

iii) Rs.21,76,814/- being the amount due under Horticulture Loan, together with interest @ 11% p.a. (simple); from the date of filing of this application, till the date of realization in full, along with costs of this application.

(b) It is further ordered that in case of default of payment by the defendants, the Applicant Bank is at liberty to sell the remaining immovable properties mentioned in the Schedule to the OA in terms of the order in (a) supra and appropriate the sale proceeds towards the decretal dues, as Item Nos. I to VI were already sold under SARFAESI Act by applicant bank in connected case OA No.183/2015.

(c) If the sale proceeds are not found sufficient to cover the amount due and payable to the Applicant Bank, defendants 2 to 9 are personally liable for all such amounts due.

(d) It is further ordered that any amount remitted or realized if any, during the course of the proceedings, shall be given due credit to the loan account of the defendants.

(e) The applicant bank is entitled for costs of this application.

11. The applicant bank is directed to file costs memo within two weeks of the receipt of this order.

12. Issue recovery certificate in favour of the applicant bank in terms of this final order.

13. Communicate a copy of the order to the parties concerned in terms of Rule 16 read with Rule 2(c) of DRT (Procedure) Rules, 1993.

(Dictated to PS, transcribed by her, corrected, signed and pronounced by me in Virtual Court, held through Video Conference on this the 08th day of June, 2020)

