(2006) 03 DEL CK 0162

In the Delhi High Court

Case No : Civil Misc. (Main) No. 532 of 2006 and Civil Misc. Application No. 3871 of 2006

Punjab and Sind Bank — APPELLANT

Vs

Allied Beverages Co. Pvt. Ltd. and Others — RESPONDENT

Date of Decision : 14-03-2006

Acts Referred:
Constitution of India, 1950 — Article 227
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 21

Citation : (2006) 4 BC 102 : (2006) 129 DLT 570 : (2006) 4 RCR(Civil) 151

Hon'ble Judges : R.S. Sodhi, J

Bench : Single Bench

Advocate : Pallav Saxena, for the Appellant; Rajesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Sodhi, J.—C.M.(M) 532 of 2006 is directed against order dated 13.2.2006 order of the Debt Recovery Appellate Tribunal (for short ''the Tribunal'') in Misc. Application No. 28 of 2006 in O.A. No. 47/2003 whereby the learned Tribunal has, while disposing of an application u/s 21 of the Recovery of Debts Due to Banks & Financial Institutions Act, 1993 (for short ''the Act''), permitted the respondent herein to deposit a sum of Rs.30 lacs on or before 12.3.2006 to proceed with the appeal.

2. It is contended by counsel for the petitioner that the Tribunal has not given any reason as to why it has permitted the respondent to deposit less than 75 per cent of the amount as was required under the Act. He also submits that the Tribunal could not have stayed the proceedings of recovery without admitting the appeal.

3. Counsel for the respondent contends that the Tribunal has gone into the application filed by the respondent and also considered the material placed before it. It also took into consideration the financial position of the respondent while arriving at the conclusion that Rs. 30 lacs would be sufficient to maintain

the appeal.

4. I have heard counsel for the parties and have gone through the order under challenge. From a perusal of the order it appears to me that the Tribunal has considered the facts and circumstances of the case before arriving at the conclusion whether a sum of Rs.30 lacs would be sufficient security for compliance of Section 21 of the Act. It is needless to say that the Tribunal was aware of the fact that the entire decretal amount is lying secured with the petitioner and that the deposit of Rs.30 lacs is over and above the security already lying with the Bank. It appears that the Tribunal has also taken into consideration the financial position of the respondent as also the merits of grounds of the appeal while arriving at its conclusion.

5. In this view of the mater, I see no reason why this Court, under Article 227 of the Constitution of India, should substitute its opinion for that of the Appellate Tribunal when no glaring jurisdictional error or miscarriage of justice seems to have occurred. The petition and the applications are dismissed.