

(2014) 12 DEL CK 0020

In the Delhi High Court

Case No : Writ Petition (Civil) 7158/2014 and CM No. 16189/2014 (stay)

Satnam Agri Products Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 226
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 17, 19(25), 22
Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) — Section 13, 13(4), 14, 15
Transfer of Property Act, 1882 — Section 69, 69A

Citation : (2015) 125 CLA 195 : (2015) 147 DRJ 617

Hon'ble Judges : G. Rohini, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Sanjeev Ralli and Aayush Juneja, Advocate for the Appellant; Monika Arora, CGSC, Abhishek Choudhary, Rajeev Kumar Yadav, Karan Khanna, Anil Kumar Sangal and Siddharth Sangal, Advocate for the Respondent

Judgement

G. Rohini, C.J.—The short question that arises for consideration in this petition is whether the condition of making pre-deposit in terms of the second proviso to Section 18(1) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "securitisation Act") , is mandatory even for entertaining an appeal against an order passed by the Debt Recovery Tribunal on an interlocutory application which does not have the effect of staying the action or measures taken by the secured creditor for enforcement of security interest under Section 13(4) of the Securitisation Act.

2. The essential facts leading to preferring this petition are:-

(a) Aggrieved by the proceedings initiated under Section 13(4) of the Securitisation Act, the petitioners filed an appeal SA No.180 of 2011 before the Debts Recovery Tribunal-II, Chandigarh under Section 17 of the Securitisation Act contending that the impugned action is in violation of statutory provisions

and RBI guidelines. Pending the said appeal, the petitioners filed I.A. No.200 of 2011 seeking a direction to the respondents for rehabilitation of the unit of the petitioner No.1 and restructuring of the credit facility. The said application was dismissed by the Debts Recovery Tribunal (DRT) by order dated 11.04.2011. The petitioners filed I.A. No.318 of 2011 to recall/review the order dated 11.04.2011 contending that the said order suffered from errors apparent on the face of the record which need to be rectified. The said application was also dismissed by DRT by order dated 24.09.2012 with costs.

(b) Assailing the above said two orders dated 24.09.2012 and 11.04.2011 passed by the DRT, the petitioners preferred an appeal before the Appellate Tribunal at New Delhi under Section 18 of the Securitisation Act along with I.A. No.17 of 2013 seeking waiver of the pre-deposit of 50% of the debt due as required under the second proviso to Section 18(1) of the Securitisation Act. The Appellate Tribunal by order dated 14.08.2014 directed deposit of 25% of the amount determined instead of 50% observing that in the light of its earlier decision in Misc. Appl. No.100 of 2013 in SA No.132 of 2012 in the case titled M/s. Shree Acids and Chemical Ltd. and Anr. vs. M/s. ASREC (India Ltd.) and Ors. requirement of pre-deposit cannot be waived. The said order may be reproduced hereunder for ready reference:-

"This Tribunal has already taken a considered view in Misc. Appeal No.100/2013 arising out of S.A. No.132/2012 (Delhi-I) M/s. Shree Acid & Chemical Ltd. & Another vs. M/s. ASREC (India) Ltd. & Ors. that when an appeal is filed under Section 18, requirement of pre-deposit cannot be wished away. Having known this view, the counsel for the appellant still insists on making submission to draw distinction between the judgment and the statutes and states that there will be some scope where requirement of pre deposit may not be there. Since this Tribunal has already taken a considered view, after hearing the counsel on all aspect, the Tribunal does not deem it proper to hear the counsel for the appellant afresh in this regard.

Though the Counsel is ready with written submissions to say that he judgments referred in the Order passed by this Tribunal are under different statute and are not applicable for deciding the issue, but I would find this conduct of the counsel to be a bit inappropriate. This Tribunal has already expressed itself and it is neither appropriate or open for anyone to contest the view expressed by the Tribunal itself before it. Accordingly, I am neither prepared nor inclined to hear the Counsel for the appellant in this regard.

Since 25% of the amount determined is the minimum requirement of the pre-deposit, the appellant would be required to make the pre-deposit of the amount what is the minimum requirement. Let the appellant deposit 25% of the amount determined. Two months time is given to the appellant to make the pre-deposit. The Waiver Application (IA No.17 of 2013) is disposed off accordingly.

Adjourned to 29th October, 2014."

(c) Aggrieved by the above said order dated 14.08.2014 passed by the appellate Tribunal, the present petition is filed seeking a certiorari to quash the said order dated 14.08.2014. The petitioners also seek a declaration that the second and third provisos to Section 18(1) of the Securitization Act are arbitrary, unreasonable and violative of Article 14 of the Constitution of India and therefore, the same are liable to be struck down.

3. It is contended in the petition inter alia as under:

(i) Since the appeal under Section 17 of the Securitisation Act is still pending before the DRT and the appeal before the Appellate Tribunal is only against the interlocutory orders passed by the DRT on the applications filed by the petitioners to consider their proposal for rehabilitation of the project and for restructuring of loan facility, the condition of pre-deposit under the second proviso of Section 18(1) of the Securitisation Act is not attracted.

(ii) The impugned order is in violation of the principles of natural justice since the Appellate Tribunal denied an opportunity of personal hearing to the petitioners and proceeded to pass the impugned order observing that the Tribunal had already taken a view on the requirement of pre-deposit.

(iii) The Appellate Tribunal failed to appreciate that the judgment dated 26.05.2014 passed in Misc. Appl. No.100 of 2013 in SA No.132 of 2012 in the case titled M/s. Shree Acids and Chemical Ltd. and Anr. Vs. M/s. ASREC (India) Ltd. and Ors. relates to different statutes having different schemes and is clearly distinguishable.

(iv) Since the interlocutory orders passed by the DRT on 11.04.2011 & 24.09.2012 neither determined the financial liability of the petitioners nor had the effect of staying the action taken by the secured creditors under Section 13(4) of the Securitisation Act for enforcement of security interest, the requirement of pre-deposit provided under the second proviso to Section 18(1) of the Securitisation Act is not applicable at all.

(v) The second and third provisos to Section 18(1) of the Securitization Act which made the condition of predeposit applicable to all appeals including the appeals against the orders in interlocutory applications, which do not give rise to any financial liability or obligation lack any rational basis and have no nexus to the objects sought to be achieved and therefore, the same are liable to be struck down.

4. We have heard the learned counsel for the petitioners as well the learned counsel for the respondents No.1, 3, 5, 8 & 9, who appeared on advance notice.

5. As could be seen, the petitioners seek to draw a distinction between the appeals preferred against a final order passed by the DRT under Section 17 of the Securitisation Act and the appeal against the order on an interlocutory application which does not have the effect of staying the measures taken by the secured creditor under Section 13(4) of the Securitisation Act for enforcement of

security interest.

6. For proper appreciation of the abovesaid contentions, it is necessary to refer to Section 18 of the Securitisation Act, which reads as under:

"18. Appeal to Appellate Tribunal.- (1) Any person aggrieved, by any order made by the Debts Recovery Tribunal under Section 17, may prefer an appeal along with such fee, as may be prescribed to an Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal.

Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower:

Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent of the amount of debt due from him as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent, of debt referred to in the second proviso.

(2) Save as otherwise provided in this Act, Appellate Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder."

(emphasis supplied)

7. A plain reading of above provision shows that a person aggrieved by any order made by the DRT under Section 17 of the Securitisation Act is entitled to prefer an appeal to the Appellate Tribunal. Apparently, the provision does not make any distinction between a final order and interlocutory order. The second proviso mandates depositing 50% of the amount of debt due from the appellant, however, as per the third proviso the same may be reduced by the Appellate Tribunal upto 25% for the reasons to be recorded in writing.

8. We may at the outset point out that the amount of 50% which is required to be deposited by the appellant under the second proviso to Section 18(1) of the Securitisation Act has to be computed either with reference to the debt due from him as claimed by the secured creditors or determined by the Debts Recovery Tribunal whichever is less. Thus, it is clear from the language of second proviso itself that the 50% pre-deposit has to be arrived at either on the basis of the claim made by the secured creditors or the amount determined by the Debts Recovery Tribunal whichever is less. In other words, the second proviso deals with both the situations, namely, where the debt due has already been determined by DRT and where it is yet to be determined. Where the amount of debt is yet to be determined by DRT, it is made clear by the second proviso that the appellant while preferring an appeal under Section 18 of the Securitisation

Act is liable to deposit 50% of the debt due from him as claimed by the secured creditor.

9. In *Narayana Chandra Ghosh Vs. UCO Bank and Others*, , the question that arose for consideration by the Supreme Court was whether the Appellate Tribunal has the jurisdiction to exempt the appellant therein from making the pre-deposit in terms of the second proviso to Section 18(1) of the Securitisation Act since the DRT had not entertained the appeal under Section 17 of the Securitisation Act on a technical ground and the quantum of amount due from the appellant had not been determined.

10. Having analyzed the scope and object of all the relevant statutory provisions, the Supreme Court held that the condition of pre- deposit being mandatory, a complete waiver of deposit by the appellant with the Appellate Tribunal, was beyond the provisions of the Act, as is evident from the second and third provisos to the said Section.

11. It was explained by the Supreme Court in *Narayan Chandra Ghosh vs. UCO Bank and Ors.* (supra) as under:-

"7. Section 18(1) of the Act confers a statutory right on a person aggrieved by any order made by the Debts Recovery Tribunal under Section 17 of the Act to prefer an appeal to the Appellate Tribunal. However, the right conferred under Section 18(1) is subject to the condition laid down in the second proviso thereto. The second proviso postulates that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less. However, under the third proviso to the sub-section, the Appellate Tribunal has the power to reduce the amount, for the reasons to be recorded in writing, to not less than twenty-five per cent of the debt, referred to in the second proviso. Thus, there is an absolute bar to entertainment of an appeal under Section 18 of the Act unless the condition precedent, as stipulated, is fulfilled. Unless the borrower makes, with the Appellate Tribunal, a pre- deposit of fifty per cent of the debt due from him or determined, an appeal under the said provision cannot be entertained by the Appellate Tribunal. The language of the said proviso is clear and admits of no ambiguity.

8. It is well-settled that when a Statute confers a right of appeal, while granting the right, the Legislature can impose conditions for the exercise of such right, so long as the conditions are not so onerous as to amount to unreasonable restrictions, rendering the right almost illusory. Bearing in mind the object of the Act, the conditions hedged in the said proviso cannot be said to be onerous. Thus, we hold that the requirement of pre- deposit under sub-section (1) of Section 18 of the Act is mandatory and there is no reason whatsoever for not giving full effect to the provisions contained in Section 18 of the Act. In that view of the matter, no court, much less the Appellate Tribunal, a creature of the Act

itself, can refuse to give full effect to the provisions of the Statute. We have no hesitation in holding that deposit under the second proviso to Section 18(1) of the Act being a condition precedent for preferring an appeal under the said Section, the Appellate Tribunal had erred in law in entertaining the appeal without directing the appellant to comply with the said mandatory requirement."

12. Even prior to the case of Narayan Chandra Ghosh (supra) , a Division Bench of the High Court of Bombay in Vinay Container Services Pvt. Ltd., Vilas J. Khaire and Mrs. Aruna Vilas Khaire Vs. Axis Bank, held that the requirement of predeposit under Section 18(1) of Securitization Act would apply even to the appeals preferred against the interlocutory orders passed by the DRT under Section 17. It was opined by the Division Bench that the words "any order" in Section 18(1) are comprehensive enough to include a final as well as an interlocutory order and there is no reason or justification for the Court to exclude an interlocutory order from the purview of Section 18(1) and that a restriction not envisaged cannot be read into Section 18 since the Court cannot rewrite legislation. SLP (C) No.36326 of 2010 preferred against the said decision of the Bombay High Court was dismissed by the Supreme Court in limine on 07.01.2011. The same view was followed in Messrs. Keystone Constructions Vs. State Bank of India by another Division Bench of High Court of Bombay.

13. In the light of the settled legal position noticed above and for the reasons stated supra, we are of the view that the condition of making pre-deposit in terms of the second proviso to Section 18(1) of the Securitization Act is mandatory for entertaining any appeal under Section 18(1) and there is no reason to exempt the appeals arising out of the orders passed by DRT on interlocutory applications merely on the ground that the said orders do not have the effect of staying the action or measures taken by the secured creditor under Section 13(4) of the Securitization Act for enforcement of security interest.

14. It may be added that during the course of the arguments, a doubt arose as to the very maintainability of IA No.200 of 2011 filed by the petitioners before the DRT-II, Chandigarh and we were of the view that if the said application itself was not maintainable, consequently the appeal preferred against the dismissal thereof as well as the present writ petition are also not maintainable. In such an event, we were also of the view that there was no cause of action to challenge the vires of second and third provisos to Section 18(1) of the Securitization Act.

15. Therefore, we have heard the learned counsel for the petitioners on the aforesaid aspect also. The learned counsel for the petitioners sought to justify the jurisdiction of the DRT by referring to Section 17(7) of the Securitization Act, which is as under:

"Section 17(7) "Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and the rules made thereunder."

Reference in this regard was also made to Section 19(25) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short "DRT Act") which empowers the DRT to make such orders and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice. The learned counsel has also drawn our attention to Section 22 of the DRT Act, which provides that the DRT and DRAT shall not be bound by the procedure laid down by the Civil Procedure Code 1908, but shall be guided by the principles of natural justice and shall have power to regulate their own procedure. Our attention was also invited to Rule 18 of the Debts Recovery Tribunal (Procedure) Rules, 1993 which enables the DRT to make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice. The learned counsel has also placed reliance upon *The Industrial Credit and Investment Corporation of India Ltd. Vs. Grapco Industries Ltd. and Others*, , *Allahabad Bank, Calcutta Vs. Radha Krishna Maity and Others*, , *ICICI Bank Ltd. Vs. Debts Recovery Appellate Tribunal-II*, (2012) BC 394 (DB) and on *Sardar Associates and Others Vs. Punjab and Sind Bank and Others*, .

16. We are unable to agree with the said submissions made by the learned counsel for the petitioners since it appears to us that if the scope of inquiry under Section 17 of the Securitization Act is so extended, no difference would be left in a proceeding for recovery of debt within the domain of the DRT Act and proceeding under Section 17 of the Securitization Act. Prima facie it appears to us that the scope of a proceeding under Section 17 of the Securitization Act is limited to verifying whether the action initiated by the lender Bank/Financial Institution of taking over possession of the secured assets/management of the business is in accordance with the provisions of the Securitization Act and the Rules framed thereunder or not and that the scope of the proceeding under Section 17 does not extend to determining the quantum of the debt.

17. It is relevant to note that though the legislature had in the year 1993 enacted the Recovery of Debts due to Banks and Financial Institutions Act (DRT Act) for the establishment of Tribunals for expeditious adjudication and recovery of debts due to Banks and Financial Institutions and for matters connected therewith or incidental thereto but still finding the slow pace of recovery of defaulting loans and mounting levels of Non-Performing Assets (NPAs) of Banks and Financial Institutions and further finding no legal provision for facilitating securitisation of financial assets of Banks and Financial Institutions, the Securitization Act was enacted, inter alia to empower the Banks and Financial Institutions to take possession of securities given for financial assets and sell or lease the same or take over the management, in the event of default i.e. classification of borrower's account as NPA. The Securitization Act vide Sections 13 to 15 thereof, enables the Banks or Financial Institutions to, notwithstanding anything contrary contained in Sections 69 or 69A of the Transfer of Property Act, 1882 and after providing an opportunity of hearing to the borrower, without being required to first prove or have adjudicated the debt, take possession of the

secured assets of the borrower and / or the management of business of the borrower. However, Section 17 of the said Act provides to any person including borrower, who may be aggrieved by such action by the Bank / Financial Institution taking over possession of the secured assets and / or management of the business of the borrower, a right of appeal to the DRT. However, the scope of adjudication by the DRT in such appeal is limited by Section 17(2) , which provides that the DRT "shall consider, whether any of the measures referred to in sub-section (4) of Section 13 taken by the secured creditor for enforcement of security, are in accordance with the provisions of this Act and the Rules made thereunder". If the DRT comes to the conclusion that the action of taking over possession / management of business was not in accordance with the provisions of the Securitization Act and the Rules made thereunder, the DRT under Section 17(3) is to make the order of restoration of the possession of the secured assets / management of the secured assets to the borrower. However if the DRT finds, that the taking over of possession of the secured assets / management of the business was in accordance with the provisions of the Securitization Act and the Rules made thereunder, then the secured creditor shall be entitled to proceed with measures as provided under Section 13 of the Act.

18. We may in this context mention that a Division Bench of this Court in Ram Murty Pyara Lal and Others Vs. Central Bank of India and Others, , relying on paras 18 and 54 of Mardia Chemicals Ltd. Vs. Union of India (UOI) and Others Etc. Etc., and differing from the judgment of the Full Bench of the Madras High Court in Lakshmi Shankar Mills (P) Ltd., V. Lakshminarayanan, V.L. Velayutham and L. Shankarnarayanan Vs. The Authorised Officer/Chief Manager, Indian Bank, Macrotech Engineers and The Registrar, Debt Recovery Appellate Tribunal, held that the DRT, in a proceeding under Section 17 of the Securitization Act is empowered to adjudicate the exact amount due to the secured creditor. Another Division Bench of this Court in Smt. Satya Bhama Gupta Vs. HDFC Bank and Others, held that in a proceeding under Section 17 of the Securitization Act, the amount which is claimed to be due to a Bank/Financial Institution can also be challenged by the borrower. SLP (Civil) CC No.22257 of 2012 preferred against the said judgment was dismissed in limine on 18.01.2013.

19. However, neither of the two Division Benches of this Court in the judgments aforesaid took note of the dicta of the Supreme Court in Transcore Vs. Union of India (UOI) and Another, that is after the judgement in Mardia Chemicals Ltd. (supra) and laying down that the very object of Section 13 of the Securitization Act is recovery by non-adjudicatory process. It was held that a secured asset under the Securitization Act is an asset in which interest is created by the borrower in the Bank / Financial Institution and on that basis alone, the Securitization Act seeks to enforce the security interest by non- adjudicatory process. The Securitization Act was held to be essentially dealing with the rights of the secured creditors and proceeding on the basis that the debtor has failed not only to repay the debt but also to maintain the level of margin and the value of the security at a level it was obliged to maintain and that security interest

needs to be enforced expeditiously without the intervention of the Court / Tribunal. It was yet further held that the Securitization Act removes all fetters under the above circumstances on the rights of the secured creditor. The Supreme Court also clarified that since the Securitization Act provides for recovery of possession by non- adjudicatory process, therefore to say that the rights of the borrowers would be defeated without adjudication, would be erroneous.

20. Though we entertain doubt as to the correctness of the view of the two Division Benches of this Court, being of the opinion that expanding the scope of a proceeding under Section 17 of the Securitization Act to the same extent as a proceeding under the DRT Act would to a large extent nullify the very purpose of enactment of the Securitization Act, we do not feel the need to refer the said aspect for consideration by the Full Bench inasmuch as we are of the view that even if DRT in a Section 17 proceeding under the Securitization Act were to have the jurisdiction to adjudicate the debt, still it would not have the jurisdiction to issue a direction as sought by the petitioners, to the creditor bank to consider a proposal for rehabilitation / settlement.

21. It may also be added that DRT being a statutory Tribunal can perform only such functions as the Statute provides. From a reading of the Securitization Act, we are unable to find any provision empowering DRT, in a proceeding under Section 17, to issue any such direction to the creditor Bank/Financial Institution to consider the proposal for rehabilitation.

22. The Supreme Court in *Standard Chartered Bank Vs. Dharminder Bhohi and Others*, held that the DRT is required to function within its statutory parameters and does not have any inherent powers. While observing that Section 19(25) of the DRT Act confers limited powers, it was held:

"27. The aforesaid provision makes it quite clear that the tribunal has been given power under the statute to pass such other orders and give such directions to give effect to its orders or to prevent abuse of its process or to secure the ends of justice. Thus, the tribunal is required to function within the statutory parameters. The tribunal does not have any inherent powers and it is limpid that Section 19(25) confers limited powers. In this context, we may refer to a three-Judge Bench decision in *Upper Doab Sugar Mills Ltd. Vs. Shahdara (Delhi) Saharanpur Light Railway Company Ltd.*, wherein it has been held that when the tribunal has not been conferred with the jurisdiction to direct for refund, it cannot do so. The said principle has been followed in *Union of India v. Orient Paper and Industries Limited* (2009) 16 SCC 286."

It was further observed in Para 29:

".. The tribunal under the RDB Act has been established with a specific purpose and we have already focused on the same. Its duty is to see that the disputes are disposed of quickly regard being had to the larger public interest. It is also graphically clear that the role of the tribunal has not been fettered by

technicalities. The tribunal is required to bestow attention and give priority to the real controversy before it arising out of the special legislations. As has been stated earlier, it is really free from the shackles of procedural law and only guided by fair play and principles of natural justice and the regulations formed by it."

The Supreme Court has also made it clear that the Tribunals cannot assume the role of a Court of different nature which really can grant "liberty to initiate any action against the Bank" and that it is only required to decide the lis that comes within its own domain.

23. We are thus, of the view that DRT does not have any power to issue any direction to the creditor bank to consider the rehabilitation or settlement proposal, if any submitted by the borrower.

24. As far as the judgements cited by the learned counsel for the petitioners are concerned, we do not find the same to be having any applicability to the matter in controversy. ICICI Bank Ltd. (supra) as well as Allahabad Bank, Calcutta (supra) were concerned with a proceeding under the DRT Act and not with other proceeding under the Securitization Act. The other decisions are also clearly distinguishable on facts. Though undoubtedly in Sardar Associates (supra) it was held that the DRT and the DRAT in exercising jurisdiction under the DRT Act have jurisdiction to consider the prayer made by a debtor for One Time Settlement (OTS) particularly when the same is within the purview of the OTS Scheme of the Reserve Bank of India as the same is binding on the Bank but in our view neither can the said principle be extended to a proceeding under the Securitization Act nor can the same be held to vest the DRT or the DRAT with the jurisdiction as of the High Court under Article 226 of the Constitution of India, to issue a direction to the Bank to consider a settlement proposal. In our view, Sardar Associates (supra) is a precedent only on the proposition that determination/computation of the debt by the DRT / DRAT under the DRT Act has to be in accordance with the guidelines if any of the Reserve Bank of India binding on the creditor Bank.

25. We are, therefore, of the view that the direction sought by the petitioners before DRT in Section 17 proceeding itself is misconceived and the appeal to the DRAT against the dismissal orders dated 11.04.2011 and 24.09.2012 is equally misconceived.

26. We are constrained to observe that the appeal under Section 17 of the Securitization Act instituted by the petitioners as far back as on 23rd February, 2011 is pending for the last more than three and a half years in spite of the statutory mandate for disposal thereof within sixty days and latest within four months. Though the respondent Banks under Section 17(6) were entitled to approach the DRAT for a direction to the DRT to expeditiously dispose of the same, they did not chose to do so. It is also surprising that neither the DRT nor the DRAT have gone into the issue of maintainability of I.A. No.200 of 2011 in a proceeding under Section 17 of the Securitization Act resulting in pendency of Section 17 proceedings on the file of the DRT for such a long span of time. We

suggest introspection by the respondent Banks, the DRT as well as the DRAT in this regard.

27. A copy of this order for aforesaid reason be forwarded to the Chairman / Managing Director of each of the respondent Banks as well as to the Presiding Officer of the concerned DRT-II, Chandigarh and the Presiding Officer of the DRAT, Delhi.

28. For the aforesaid reasons, we hold that the petition challenging the vires of the second and the third proviso to Section 18(1) of the Securitization Act and also the order of DRAT dated 14.08.2014 is utterly misconceived.

29. Accordingly, the petition is dismissed with costs of Rs.20,000/- to the respondent Indian Overseas Bank which alone appeared on advance notice.