

Invent Assets Securitisation & Reconstruction Pvt. Ltd. v. Bank of Baroda & Ors

Invent Assets Securitisation & Reconstruction Pvt. Ltd

...Appellant

Bank of Baroda & Ors

...Respondent

Case No: Appeal No. 20/2022

Date of Judgement: 04/08/2023

Judges:

Mr Justice Ashok Menon, Chairperson

For Appellant: Mr Rajesh Nagory along with Mr Rohit Gupta & Harsh L Behany & Mr Gaurav Gandhi, Advocate.

For Respondent: Senior Counsel Mr S. Rai, i/b Mr Bhaskar Sharma, Ms Madhavi Doshi, i/b M/s Phoenix Legal, Ms Mumtaz Khan, Advocate.

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Facts:

The case revolves around an appeal (Appeal No. 20/2022) filed by Invent Assets Securitisation & Reconstruction Pvt. Ltd. (Appellant) against Bank of Baroda & Others (Respondents) before the Debts Recovery Appellate Tribunal, Mumbai. The Appellant filed an application (I.A. No. 355/2022) seeking the appointment of a valuer to ascertain the market value of certain properties mentioned in the schedule attached as Exh.-A. The underlying dispute involves M/s Hans Ispat Ltd. (Second Respondent), which had borrowed money from a consortium of two banks – State Bank of India (SBI) and Bank of Baroda (BOB). M/s Hans Ispat Ltd.

defaulted on repayment, and the account was classified as a non-performing asset (NPA). SBI assigned its portion of the debt to the Appellant (Invent Assets Securitisation & Reconstruction Pvt. Ltd.). There were negotiations for a settlement of the debt due to the Appellant, and an agreement was drawn specifying the terms, but M/s Hans Ispat Ltd. defaulted on those terms. BOB filed Original Application (O.A.) No. 525 of 2015 for recovery of the debt due to them and obtained a Recovery Certificate for ₹32,82,25,571/- against M/s Hans Ispat Ltd. on 15.04.2019. The judgment granting the Recovery Certificate was challenged by M/s Hans Ispat Ltd. in an appeal, which was pending consideration. Recovery Proceedings were initiated before the Recovery Officer-I, Debts Recovery Tribunal (D.R.T.)-I, Ahmedabad, as R.P. No. 246 of 2019. The secured assets of M/s Hans Ispat Ltd. were put up for sale in an auction, which failed multiple times due to a lack of bidders, leading to revisions in the reserve price.

Arguments by Parties:

The Appellant (Invent Assets Securitisation & Reconstruction Pvt. Ltd.): a. Filed an objection to the attachment and auction of the immovable properties in R.P. No. 246 of 2019. b. Sought to lift the order of attachment from the immovable properties. c. Requested the recall of the order for the auction of the properties owned and possessed by M/s Hans Ispat Ltd. (certificate debtors). d. Claimed to have a pari passu (equal ranking) and first charge over the properties under attachment. e. Contended that the mortgage deed was executed in favor of SBI as the lead bank of the consortium, and the Appellant had a pari passu mortgage charge over the properties, which cannot be sold without their consent. f. Challenged the order appointing a Commissioner to take an inventory of the movables in the factory before the Hon'ble High Court of Gujarat, which granted liberty to file an appeal. g. Wanted the sale to be stalled and their claim over the properties to be established. h. In the present application (I.A. No. 355/2022), the Appellant alleged that the property worth more than 100 crores was sold for a meager amount and sought the

appointment of a valuer to ascertain the market value of the properties afresh.

Respondent No. 1 – Bank of Baroda (BOB): a. Objected to the appointment of a valuer at this stage. b. Contended that the Appellant had not raised any contention regarding the insufficiency of the property's value at any point in time.

Court's Elaborate Opinions:

The court observed that the application filed by the Appellant before the Recovery Officer did not seek any action regarding the valuation of the properties or raise any contention regarding the insufficiency of the reserve price fixed for the property. The court noted that the Appellant did not have any such contention apart from objecting to not obtaining their consent before proceeding against the property and

for establishing their pari passu charge. The court held that a "fishing expedition" at this belated stage in the appeal cannot be entertained. Consequently, the court found no merit in the application (I.A. No. 355/2022) and dismissed it.

Sections and Laws Referred:

Recovery of Debts and Bankruptcy Act, 1993 (RDB Act) a. Section 30 (Appeal to the Appellate Tribunal)