

**BEFORE THE DEBTS RECOVERY
APPELLATE TRIBUNAL, AT: MUMBAI**

Present: Mr Justice Ashok Menon, Chairperson

I.A. No. 355/2022

**In
Appeal No. 20/2022**

Between

Invent Assets Securitisation & Reconstruction Pvt. Ltd. ... Appellant/s

V/s.

Bank of Baroda & Ors ... Respondent/s
Mr Rajesh Nagory along with Mr Rohit Gupta & Harsh L Behany & Mr Gaurav Gandhi, Advocate for Appellant.

Senior Counsel Mr S. Rai, i/b Mr Bhaskar Sharma, Advocate for Respondent No. 1 Bank.

Ms Madhavi Doshi, i/b M/s Phoenix Legal, Advocate for Respondent Nos. 2 & 3.

Ms Mumtaz Khan, Advocate for Respondent No. 5.

:- Order dated: 04/08/2023:-

This is an application filed by the Appellant seeking the appointment of a valuer from the list of valuers notified by the D.R.T., Mumbai and to fix a date and time for the valuer to visit the factory premises situated at Village & Mouje Budharmora, Taluka Anjar, Kutch District, Gujarat to ascertain the market value of the properties mentioned in the schedule attached at Exh.-A and to present a valuation report before this Tribunal and for other relief such as granting permission to valuers to enter the property.

2. The facts, in brief, are thus:

The Appellant is an asset reconstruction company named Invent Assets Securitisation and Reconstruction Pvt. Ltd. The Appellant impugns the judgment dated 31.03.2022 in Appeal No. 02 of 2022 filed under Sec. 30 of the Recovery of Debts and Bankruptcy Act, 1993('RDB Act', for short) on the files of the Debts Recovery Tribunal -I, Ahmedabad (D.R.T.). The second Respondent herein namely M/s Hans Ispat Ltd. has borrowed money from a consortium of two Banks namely the State Bank of India (SBI) and Bank of Baroda (BOB). The borrower defaulted on payment and the account was classified as a non-performing asset (NPA). The SBI thereafter assigned their portion of the debt to the Appellant. There were negotiations for a settlement of the debt due to the Appellant and an agreement was also drawn specifying the terms. The borrower did not stick to those terms and defaulted. In the meanwhile, 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 the borrower on 15.04.2019. The judgment stands challenged by the borrower in appeal which is pending consideration. Recovery Proceedings were initiated before the Recovery Officer-I, D.R.T.-I, Ahmedabad as R.P. No. 246 of 2019. The secured assets were put up for sale in an auction. The auction failed multiple times for want of bidders. The reserve price for the property had, therefore, to be revised every time the property came up for fresh auction.

3. In the meanwhile, the Appellant filed an objection to the attachment and auction of the immovable properties in the R.P. The main reliefs/ prayers in that application reads thus:

“10. Under the circumstances and as narrated hereinabove, the TPO (third party objector) humbly prays to this Hon’ble Tribunal as under:

- (a) This Hon’ble Tribunal may please to allow the present objection.
- (b) This Hon’ble Tribunal may please lift the order of attachment from the above the immovable properties.
- (c) This Hon’ble Tribunal may please to recall the order of the auction of the properties owned and possessed by certificate debtors and declare that the third party is having pari passu and first charge over the properties under attachment and more particularly mentioned in the scheduled.
- (d) The cost of the objection may be allowed.
- (e) To pass such other and further orders as may be deemed just and proper in the circumstances of the case.”(sic)

4. The Ld. R.O. refused to grant any reliefs to the Appellant in their claim petition and hence, the order of the R.O. was challenged before the Ld Presiding Officer, D.R.T.- I, Ahmedabad in Appeal No. 02 of 2022 challenging the various orders passed by the Recovery Officer in the aforesaid R.P. No. 246 of 2019. The main contention of the Appellant before the Ld. P.O. was that the mortgage deed was executed in favour of the SBI as the lead Bank of the consortium. It was contended that the Appellant had a pari passu mortgage charged over the properties which cannot be sold without their consent. The order appointing a Commissioner to take an inventory of the movables in the factory was also challenged before the Hon’ble High Court of Gujarat which was disposed of granting liberty to file an appeal. The Appellant, therefore, wanted the sale to be stalled and wanted their claim over the properties to be established. The appeal was disposed of, and the Ld. Presiding Officer refused to set aside the sale that was conducted holding the fifth Respondent as the highest bidder. However, a pari passu charge and rateable distribution of the

amount recovered was allowed. The Appellant is aggrieved and hence, in appeal.

5. The present application is for the appointment of a valuer to value the mortgaged property afresh on the allegation that the property worth more than 100 crores was sold for a song.

6. The first Respondent BOB has objected to the appointment of the valuer at this stage and also contended that the Appellant had not raised any contention regarding the insufficiency of the value at any point in time.

7. Heard both sides.

8. A reading of the application filed by the Appellant before the Recovery Officer of which the reliefs' portion is extracted above does not seek any action regarding the valuation of the properties. There is not a scintilla of the pleading regarding the insufficiency of the reserve price fixed for the property. The Appellant did not have any such contention apart from objection regarding not obtaining their consent before the proceeding against the property and for establishing their pari passu charge. A fishing expedition at this belated stage in appeal cannot be entertained. Hence, the application deserves no merit. I.A. No. 355 of 2022 is dismissed.

Sd/-
Chairperson

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