

Relief to Phoenix ARC: Bombay HC set aside debt recovery tribunal order, allows auction of Usha Kiran flat

In a relief to Phoenix ARC, the Bombay High Court has set aside the debt recovery tribunal order, allowing the auction of Usha Kiran flat.

The petitioner, Phoenix ARC is a Securitisation and Asset Reconstruction Company and is an assignee of Oriental Bank of Commerce (OBC) under a valid and subsisting Deed of Assignment and has stepped into the shoes of the said OBC and as such is judgement creditor of respondent and is pursuing the Recovery proceedings pending in Debt Recovery Tribunal (DRT), Mumbai. Originally, OBC advanced various credit facilities to various entities viz. Beautiful Diamonds Ltd, Beautiful Realtors Pvt. Ltd., Beautiful Jewellers Pvt. Ltd., and Crystal Gems.

Respondent is the Registrar, Debt Recovery Appellate Tribunal while respondent is the Recovery Officer of DRT. Respondent no.5 is the borrower (in liquidation). Respondents are mortgagors / guarantors to the credit facilities granted, sanctioned and disbursed to the respondent.

According to petitioners in or around 2013, the promoters/ guarantors of Beautiful Group approached the petitioners and indicated their desire to restructure its debts and to take over the debts of Beautiful Group from OBC. Accordingly, Deed of Assignment was executed between OBC and the petitioners whereby debts of Beautiful Group along with its underlying securities were assigned in favour of the petitioners. Pursuant to the said assignment, the petitioners and respondent arrived at a settlement and executed consent terms which was filed before the DRAT, Mumbai in the pending appeals.

The coram of Chief Justice Deepankar Dutta and Justice V.G.Bisht said, “We are not happy and satisfied with the way the Recovery Officer, DRT-I has discharged his duties. This being so, the petitioners also cannot draw any comfort from the illegal orders passed by the Registrar, DRAT and as also Recovery Officer, DRT, to say the least. We intuitively feel that the Registrar, DRT and the Recovery Officer, DRT were not right in their reading of the order passed by this Court in Writ Petition. These orders of the Registrar and Recovery Officer, DRT are certainly not sustainable in law.”

