

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2209 OF 2020

THE COSMOS CO OPERATIVE BANK LTD.

Appellant(s)

VERSUS

ISHRAT ALI & ANR.

Respondent(s)

O R D E R

Appeal is admitted.

This appeal takes exception to the judgment and order dated 12.03.2020 passed by the National Company Law Appellate Tribunal, New Delhi in Company Appeal (AT) (Insolvency) No. 1121 of 2019.

Heard learned counsel for the parties.

The issue regarding the maintainability of the application under Section 7 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act") was referred to 5-judge Bench of the Appellate Tribunal.

After answering that reference, the appellate Tribunal deemed it appropriate to dismiss the application filed by the appellant under Section 7 of the Act being time barred.

As a consequence of that declaration, the order passed

by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench, Mumbai dated 23.09.2019 on the stated application was also set aside.

The grievance in this appeal is that the Larger Bench of the Appellate Tribunal after having answered the reference, ought to have allowed the application to proceed before the Adjudicating Authority on its own merits. Further and in particular, the issue requires reconsideration in light of the recent decision of this Court.

We are in agreement with this grievance of the appellant. For, the Larger Bench after answering the referred question should have relegated the parties before the Adjudicating Authority for decision on the application in light of its pronouncement, and also including the decision(s) of the Supreme Court, as may be applicable.

Accordingly, we set aside the impugned judgment and order of disposing of application filed by the appellant under Section 7 of the Act. Instead, we restore the application to the file of the National Company Law Tribunal, Mumbai Bench, Mumbai to its original number for being considered afresh on its own merits and in accordance with law without being influenced by the order dated 23.09.2019 or the impugned judgment of the Tribunal.

All contentions available to both sides are kept open.

Needless to observe that in view of restoration of application under section 7, all applications filed in the said proceedings will get revived to its original position, to be considered afresh after hearing the parties.

The parties to appear before the Adjudicating Authority on 24.08.2021.

The appeal is disposed of in the above terms.

Pending applications, if any, stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(SANJIV KHANNA)

New Delhi;
August 09, 2021.

ITEM NO.41 Court 4 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2209/2020

THE COSMOS CO OPERATIVE BANK LTD.

Appellant(s)

VERSUS

ISHRAT ALI & ANR.

Respondent(s)

IA No. 53441/2020 - APPLICATION FOR PERMISSION
IA No. 47062/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 47063/2020 - INTERVENTION/IMPLEADMENT
IA No. 47061/2020 - STAY APPLICATION)

Date : 09-08-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(s)

Mr. Ninad Laud, Adv
Ms. Ananyaa Mazumdar, Adv
Mr. Avinash Mathews, Adv
Mr. Sahil Tagotra, AOR

For Respondent(s)

Mr. Siddharth Bhatnagar, Sr Adv
Mr. Avishkar Singhvi, Adv
Ms. Rohini Musa, AOR
Mr. Nipun Katyal, Adv
Mr. Aditya Sidhra, Adv
Mr. Nadeem Afroz, Adv

UPON hearing the counsel the Court made the following
O R D E R

Appeal is admitted.

This appeal is disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)

[Signed order is placed on the file]

