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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 14316/2022 & CM APPL. 43727/2022

INDU KAPOOR Petitioner

versus

AU SMALL FINANCE BANK & ANR. Respondents

+ W.P.(C) 476/2023 & CM APPL. 1866/2023

JITENDER KUMAR Petitioner

versus

PUNJAB NATIONAL BANK & ANR. Respondents

+ W.P.(C) 1474/2023 & CM APPL. 5535/2023

KOTAK MAHINDRA BANK LIMITED Petitioner

versus

MR.BHAVINDERSINGHKHURANA & ANR. Respondents

+ W.P.(C) 1532/2023 & CM APPL. 5815/2023

KOTAK MAHINDRA BANK LIMITED Petitioner

versus

BHAVINDER SINGH KHURANA & ANR. Respondents

Through: Mr. Sanjeev Bhandari, Advocate (*Amicus Curiae*).

Mr. Rajeeve Mehra, Senior Advocate (*Amicus Curiae*).

Mr. R. Venkataramani, Attorney General of India with Mr. Kirtiman Singh, CGSC along with Ms. Vidhi Jain, Advocate for UOI.

Mr. Mohinder Singh and Mr. Ankur Goel, Advocates for LIC.

Mr. Sanjeet K. Trivedi and Mr. Hemant Gupta, Advocates for Petitioner in W.P.(C) 1474/2023. (Mob. No. 9891265248)

Ms. Nidhi Raman, CGSC along with Mr. Zubin Singh, Advocate for UOI W.P.(C) 1474/2023 (Mob. No. 9555672532)

Mr. Tushar Sannu, ASC for NDMC along with Mr. Devvrat Tiwari and Mr. Abhishek Singh, Advocates in Item Nos. 9 & 10.

Mr. Santosh Kumar Rout, Standing Counsel for PNB along with Mr. Abhishek Chakraborty and Mr. Pawan Kumar Dhiman, Advocates for R-1/PNB in W.P.(C) 1474/2023.

Ms. Sanya Lamba, Advocate for petitioners in Item Nos. 10 & 11.

Mr. Gagan Chhabra, Advocate for Respondents in Item Nos. 11 & 12.

Anand Aggarwal, Advocate Vice- President, DRT Bar Association

Mr. Anil Kumar Pandey, Registrar, DRT-II.
Ms Sanya Lamba, Advocate for Kotak Mahindra Bank.

Mr Saurabh Kumar Rout, SC for PNB.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

ORDER

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10.05.2023

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. The court is assured by the learned Attorney General of India that the issues raised in this court's previous orders have been under active consideration of the Government of India and some of the issues are

pending before the Supreme Court of India in W.P (C) 1018/2021 titled *Madras Bar Association v. UOI & Anr.* which is listed on 11.07.2023. He states that as regards the appointment of the Presiding Officer for DRT-II, Delhi, candidates have been selected and the process of appointment may take a few weeks. Apropos augmentation of the number of Tribunals, he submits that the matter will be discussed with the government and something worthwhile could well come out of the discussion. It will be open to the members of the DRT Bar to approach the learned Attorney General of India with their suggestions apropos the needs and concerns of the bar. Let the same be done by way of a written note either through Mr. Rajeeve Mehra, Senior Advocate or Mr. Sanjeev Bhandari, Advocate who would forward the note to the learned Attorney General within a period of two weeks. The government is conscious of the fact that there is no Presiding Officer holding charge of DRT-II for almost 10 months. Let remedial measures be taken in this regard so that no litigant is rendered remediless or without forum where she/he/it could agitate its grievances.

2. Mr. Kirtiman Singh, the learned CGSC states, upon instructions, that at the three DRTs in Delhi and at the DRAT, hard copies are not being accepted in terms of the notifications issued by the Administrative Ministry. He submits that the government is conscious of the orders passed by this court on 19.04.2023 in which the observations of the Supreme Court in Civil Appeal no. 674/2021 titled *C.C.E. and S.T., Surat I vs. Bilfinder Neo Structo Construction Ltd.* have been referred to. Furthermore, the Supreme Court on 01.05.2023 in CA No. 748/2023 titled *Sanket Kumar Agarwal & Anr. v. APG Logistics Private Limited*

has passed the following directions:

“30. Before concluding, we cannot but fail to notice the flip-flops on the part of the NCLAT in providing administrative guidance on whether limitation would commence from the date of e-filing or from the presentation of the appeal at the filing counter. With technological advances, the country’s judiciary and tribunals must move towards e-filing. This process has already commenced and is irreversible. The Union Government must have a fresh look at the rules to encourage e-filing across tribunals. Perhaps one way forward would be to constitute a Working Group to make a comprehensive assessment of the position across tribunals and suggest regulatory changes. Moreover, it is utterly incomprehensible why NCLAT should insist on physical filing in addition to e-filing. This unnecessarily burdens litigants and the Bar and is a disincentive for e-filing. A lawyer or litigant who is compelled to file physical copies in addition to e-filed documents will have no cogent reason to resort to e-filing. This duplication of effort is time consuming. It adds to expense. It leaves behind a carbon footprint which is difficult to efface. The judicial process has traditionally been guzzling paper. This model is not environmentally sustainable. If some judges are uncomfortable with e-files, the answer is to provide training to them and not to continue with old and outmoded ways of working. The judiciary has to modernize and adapt to technology. The tribunals can be no exception. This can no longer be a matter of choice. The IBC is a significant prong in economic reforms. It has radically reshaped the law relating to insolvency and bankruptcy. The manner in which the law is administered will have to keep pace with technology. Both the Union government in its rule making capacity and the administrative heads of tribunals must ensure a seamless transition to working in the electronic mode...”

3. In order to ensure compliance of the aforesaid directions of the Supreme Court and to make available a functional 'e-court system' at the DRTs and DRAT, interaction and consultation between Officers of the IT Department of this court, the NIC and the officials of the DRTs and DRAT has taken place. The learned CGSC says that further consultations are underway and the views of the stakeholders shall be taken into consideration. It will be open to the Bar Association(s) of DRT and DRAT, Delhi to furnish their suggestions to the IT Team of this court through Mr. Sanjeev Bhandari, the learned *Amicus Curiae*.
4. Mr. Rajeev Mehra, the learned Senior Advocate (*Amicus Curiae*) says that as of last week, for quite some hours, there was no internet connectivity. Resultantly, the Tribunals could not function and there was no e-filing either. Presently, the internet connectivity speed is inadequate and as per the suggestions of the NIC and the IT Department of this court, 1-TB connectivity is a prerequisite. The court is assured that connectivity speed and bandwidth of 1-TB shall be made available preferably within the next week and due provisions shall be made so that the requisite connectivity is available to the Tribunals and to the lawyers. The court would expect the Administrative Ministry to be mindful of and anticipate the needs of the Bar and the Tribunals in the years to come and install all requisite infrastructure for such needs, including for facilitation of hybrid hearing of cases, as has been directed by the Supreme Court in *Sanket Kumar Agarwal (supra)*.
5. Mr. Mehra further submits that the infrastructure at the DRAT is equally appalling, inasmuch as case files are stored in staircases and even in staff-members' toilets. Therefore, the physical infrastructure

needs immediate upgradation and amelioration. The learned CGSC submits that the Administrative Ministry will promptly look into the matter and rectify the same in terms of the directions passed in these proceedings apropos the DRTs. Let the same be rectified within the next four weeks, including provision of two additional rooms/space which is said to be requisite at this stage. Furthermore, the system of digitization of physical records/disposed-off cases will be initiated so that there is weeding-out of the unnecessary files from the premises of the DRTs and DRAT, and space, which is premium in the city is freed- up. A Status Report in this regard shall be filed within six weeks.

6. The court is assured by Mr Kirtiman Singh, the learned CGSC that work is on schedule apropos delivery of the renovated DRTs rooms. The learned counsel for LIC/landlord assures the court, upon instructions, that the renovated premises shall be handed over to the respective Registrars of the DRTs on or before 20.05.2023. Access to the DRTs on the third floor and later on to the fourth floor as well, shall be ensured by elevators and through the staircase which shall be whitewashed, well lit and in good repair.
7. List for further proceedings on 29.05.2023.

NAJMI WAZIRI, J

SUDHIR KUMAR JAIN, J

MAY 10, 2023/rd