

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1121 of 2019

IN THE MATTER OF:

Ishrat Ali

...Appellant

Vs

Cosmos Cooperative Bank Ltd. & Anr.

....Respondents

Present:

For Appellant: Mr. Ramji Srinivasan, Sr. Advocate with Mr. Avishkar Singhvi, Mr. Dhruv Surana and Mr. Nipun Katyal, Advocates.

For Respondents: Mr. Gourab Banerji, Sr. Advocate with Mr. Ninad Laud, Ms. Ananyaa Mazumdar, Ms. Raka Chatterjee, Mr. Sahil Tagotra for R-1.

Mr. P. K. Mittal, Advocate for RP.

O R D E R

20.01.2020: Learned counsel for the Respondent has referred to judgment in Company Appeal (AT) (Insolvency) No. 672 of 2019 dated 22nd November, 2019 passed by three Hon'ble Members Bench of this Appellate Tribunal, whereby it was held that the period of action taken under SARFEASI Act, 2002 can be calculated for the purpose of exclusion of the period under Section 14(2) of the Limitation Act.

However, in this regard we are of the view that the action taken by a Financial Institution under Section 13(4) of the SARFEASI Act is not a proceeding before a Court of Law nor before the Tribunal and if any application is filed before the Debts Recovery Tribunal against such action, is also in terms of the SARFEASI Act, 2002, therefore, it cannot be held to be a proceeding moved before a wrong forum for the purpose of Section 14(2) of the Limitation Act.

For such reason, we refer the matter to a larger bench of five Hon'ble Members chaired by Hon'ble Chairperson.

Post this matter before the larger bench of five Hon'ble Members 'for admission (after notice)' on **30th January, 2020 at 10:30 AM.**

During the pendency of the appeal, the Appellant/ Promoters are directed to handover the assets and records of the Corporate Debtor to the Interim Resolution Professional and withdraw the FIR, if any, filed against the Interim Resolution Professional, failing which the appeal may be dismissed without going into the merit after answering the issue as referred.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/sk