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

Date of Decision: 7th November, 2012

+ **CM(M). 1217/2012**

PACIFIC SPIRITS (P) LTD. Petitioner
Through Mr.Jaswinder Singh, Advocate

versus

PUNJAB NATIONAL BANK & ORS. Respondent
Through None

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

CM. No.18985/2012

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CM(M). 1217/2012 & CM.18984/2012

1. By an order dated 12.10.2012 in S.A.109/2011, I.A. No.829/2012 was disposed of by the Debts Recovery Tribunal-I whereby the Petitioner was directed to deposit a sum of ₹1 Crore within one week and a further sum of ₹5 Crores within 21 days. The Petitioner was further directed to file an

affidavit-cum-undertaking in this regard by 17.10.2012. The relevant portion of the order dated 12.10.2012 is extracted hereunder:

“I am of the view that there is no cogent reason to stop the bank from taking possession of the property, as the applicants had taken this Tribunal for ride and the direction for deposit of ₹1 Crore within a month given vide order dated 23.03.12 has also attained finality as no appeal was preferred against the said order also. Though not justified, still in the interest of justice, one more opportunity is given to the applicants to deposit the already directed amount of ₹1 Crore within a week and further amount of ₹5 Crores within next 21 days.

The applicant shall file an affidavit-cum-undertaking by 17.10.12 to the effect that the said amount shall be deposited in time. Subject to above the bank is restrained from taking possession of the property in question. In case the affidavit is not filed and/or in the case of default in deposit at any stage the bank will be at liberty to proceed further as per law.

Be listed on 22.11.12 for further proceedings.

Dasti.”

2. The Petitioner’s grievance is that during pendency of the proceedings before the learned Debts Recovery Tribunal-I, Delhi, a portion of plot No.EXT/SP-3 & EXT/SP-3(A), Industrial Area, Shahjahanpur, 111 Km stone, Delhi-Jaipur Highway NH-8, Distt. Alwar(Rajasthan) an area of 70518.8 sq yd was bifurcated by RIICO which could have liquidated major portion of the outstanding loan in the name of the Petitioner. It is urged that in the circumstances, the order dated 12.10.2012 passed by the Debts Recovery Tribunal-I, Delhi was unjustified as the Petitioner was not in a position to make the arrangements as mentioned in the order.

3. It is stated that the Appellant has already challenged the order dated 12.10.2012 by filing an Appeal before the Debt Recovery Appellate Tribunal, Delhi on 05.11.2012. The learned counsel for the Petitioner states that in pursuance of order dated 12.10.2012, the Punjab National Bank has issued a notice dated 25.10.2012 directing the Petitioner to deliver physical possession of the mortgaged property, before 09.11.2012, failing which the Bank will take physical possession of the property. The Appeal is not being listed for hearing as the learned Chairperson, DRAT is on leave. The Petitioner has been given to understand that the learned Chairperson is likely to be on leave till 15.11.2012.
4. I have perused the record. In the circumstances, the Petitioner is granted protection against taking physical possession of the property by the Respondent Bank in pursuance of the order dated 12.10.2012 and the notice dated 25.10.2012 till 21.11.2012.
5. With the above directions, the Petition stands disposed of.
6. Dasti under the signature of Court Master.

(G.P. MITTAL)
JUDGE

NOVEMBER 07, 2012

pst