

Court No. - 3

Case :- WRIT - C No. - 40090 of 2023

Petitioner :- Zaheeda Bibi @ Zayada Bibi (Deceased)

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Yogesh Mishra, Anurag Mishra

Counsel for Respondent :- CSC, Anadi Krishna Narayana

Hon'ble Siddhartha Varma, J.

Hon'ble Shekhar B. Saraf, J.

1. Learned counsel for the petitioner may correct the description of the petitioner during the course of the day.
2. It has been informed by the learned counsel for the petitioner that the actual borrower Mohd. Saleem had lost his mental balance and, therefore, the petitioner who was the legal heir of the mother of the petitioner who had created this mortgage be permitted to contest the writ petition. It has been stated by the learned counsel for the petitioner that the mortgagor Smt. Zaheeda Bibi @ Zayada Bibi had died and that she was the mother of both the petitioner and the borrower Mohd. Saleem.
3. Learned counsel for the Bank Sri Ashok Kumar Lal, however, submits that if the petitioner is, in any manner, aggrieved by the proceedings initiated by the Bank under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act') then he may approach the Debts Recovery Tribunal under Section 17 of the Act.
4. However, learned counsel for the petitioner states that since there was an impending danger of dispossession, this Court may give some protection to the petitioner.
5. Under such circumstances, if the petitioner files an application before the Debts Recovery Tribunal within a period of one week from today alongwith an application for interim protection then the Debts Recovery Tribunal would consider the application for interim protection within the next one week.
6. For a period of two weeks or till the decision on the application for interim protection, whichever is earlier, no coercive action shall

be taken against the petitioner.

7. It is made clear that the Debts Recovery Tribunal shall decide the matter purely as per the provisions of the Act.

8. With these observations, the writ petition is disposed of.

Order Date :- 22.11.2023

PK

(Shekhar B. Saraf,J.)

(Siddhartha Varma,J.)