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

\+ W.P.(C) 6961/2014

% ***Judgment dated 30th September, 2015***

DELHI DEVELOPMENT AUTHORITY ..... Petitioner

Through : Mr.Rajiv Bansal, Mr.Siddhant Gupta and Mr.A.Gupta, Advs.

versus

CORPORATION BANK & ANR. ..... Respondents

Through : None.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (*ORAL*)

1. Present writ petition has been filed by the petitioner/DDA under Articles 226 and 227 of the Constitution of India seeking a direction to quash and set aside the order dated 12.3.2014 passed by Debts Recovery Appellate Tribunal (hereinafter referred to as the *'DRAT'*) in I.A. No.724/2012 in Inward No.618/2012; the order dated 25.6.2014 passed by the Presiding Officer, Debts Recovery Tribunal-I in I.A.No.362/2012; and the order dated 27.2.2015 passed by the Recovery Officer, Debts Recovery Tribunal-I, in R.C. No.106/2012.
2. In this case, the petitioner-DDA, being the superior lessor, allotted a plot bearing no.33, Facility Centre, Kalindi Kunj Road, Jasola, New Delhi, admeasuring 877.50 sq. mts. to respondent no.2 on 1.10.2001 for a total sum of Rs.64,54,126/- for construction of a Recreational and Sports Club. Respondent no.2 deposited Rs.29,50,000/- with the DDA on 28.11.2001.

Respondent no.2 also submitted a request to the DDA for providing a No Objection to enable respondent no.2 to raise loan for Rs.35,00,000/-, The No Objection for applying loan was granted to respondent no.2 on 11.2.2002. Respondent no.2 mortgaged this property with respondent no.1-Bank without obtaining prior and necessary permission of the DDA with respect to creation of mortgage of the plot. Respondent no.1 informed the DDA that it had sanctioned Rs.60,00,000/- towards loan for payment of premium of plot and construction and requested for grant of permission for mortgage. As per the petitioner, loan amount was much more than for which No Objection was given and, thus, the loan sanctioned was in violation of no-objection granted. On 11.5.2002 possession of the plot was handed over to respondent no.2. On 28.1.2005 lease was executed in favour of respondent no.2. On 9.3.2005 respondent no.2 requested for sanction of mortgage permission, which was never granted. Since the amounts were not paid by respondent no.2, proceedings were instituted by respondent no.1 before the DRT. A certificate was issued and subsequently order for sale of the property was passed. Objections were filed by the DDA on the ground that since the property was mortgaged with respondent no.1 without prior permission of the DDA, the mortgage would be illegal and the DDA would have a right of re-entry, as per the terms of the lease. The stand of the DDA has been rejected by the DRT and DRAT, which forced the petitioner to approach this court.

3. Learned counsel for the petitioner has brought to the notice of this court the Order dated 23.2.2015 passed by the Supreme Court of India in a connected Special Leave petition (C) No.33677/2014, pertaining to the same parties. The order dated 23.2.2015 reads as under:

> “*Application seeking permission to file additional documents on record is allowed.*
>
> *We have heard Mr.Amarendra Sharan, learned senior counsel for the petitioner-Authority, who fairly stated that the petitioner-Authority intended to work out its remedy under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 before the Debts Recovery Tribunal inasmuch as the ultimate sale effected by the Recovery Officer was in contravention of the terms of the lease as between the petitioner and the long term lease holder. Even to consider the said prayer of the petitioner-Authority, notice has to be necessarily issued to the respondents.*
>
> *Therefore, issue notice to the respondents returnable in four weeks.*
>
> *Dasti service, in addition, is permitted.*
>
> *In the meantime, status quo of property as it exists today shall be maintained by the parties.*”

4. In view of the aforestated Order dated 23.2.2015 passed by the Supreme Court of India, learned counsel for the petitioner contends that this writ petition may also be disposed of on the same lines as the auction purchaser has shown his disinclination to purchase the property in question, the effect of which would be that neither the principle borrower is paying the amount to respondent no.1 bank nor fresh auction is being conducted.
5. Be that as it may, in view of the order dated 23.2.2015 passed by the Supreme Court of India, as prayed, no further orders are required to be passed in the present petition and the same is accordingly disposed of in terms of the Order dated 23.2.2015 passed by the Apex Court. It is made

clear that all the rights of the parties are kept open to be agitated in the appropriate Court of jurisdiction.

<u>CM APPL. 16383/2014 (STAY)</u>

6. Application stands disposed of in view of the order passed in the writ petition.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 30, 2015

msr