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

\+ **W.P.(C) 8601/2014 & C.M. APPL. 11945/2015**

PRAVEEN DABAS ..... Petitioner

Through : Mr. N. S. Dalal, Advocate.

versus

STATE BANK OF BIKANER & JAIPUR & ORS ..... Respondent

Through : Mr. Shiv K. Tyagi, Adv. for R-1.
Mr. Kuldeep S. Parihar and Mr. H. S. Parihar, Advocates for R.B.I.
Mr. U. N. Singh, Adv. for Union Bank of India/R-6.
Mr. Mayank Goel, Proxy Counsel for Mr. A. S. Anand, Adv. for R-7.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

O R D E R

% **14.07.2015**

C.M. APPL. 11945/2015

1. Exemption allowed subject to just exceptions.
2. Application stands disposed of.

W.P.(C) 8601/2014

3. Aggrieved by the order dated 21.10.2014 passed by the Debt Recovery Appellate Tribunal, present writ petition has been filed. This is yet another matter where the borrower has taken at least three banks for a ride and financial assistance has been obtained by creating a mortgage of a property known by No. I-4/58, 2nd Floor, Sector-16, Rohini. The petitioner claims to be an innocent purchaser of the

aforesaid property as well. The petitioner approached the Debts Recovery Tribunal against the SARFEASI action of Union Bank of India for stay of dispossession and the sale of property in question. No stay was granted to the petitioner which led to filing of an appeal. The petitioner was granted stay on petitioner's depositing Rs. 5,00,000/- which the petitioner claims to have deposited. Mr. N. S. Dalal, learned counsel for the petitioner submits that thereafter the petitioner received another notice from State Bank of Bikaner & Jaipur and another notice is likely to be received from Punjab National Bank also as respondent nos. 2 & 3, borrowers have on the basis of title deeds of the same property created mortgage in favour of three different banks and obtained loan. Pursuant to the orders of the Delhi High Court, Rs. 4,00,000/- were also deposited by the petitioner.

4. Counsel for all the parties are in agreement that the borrower has played a fraud and at least either of the title deeds are fabricated or only one would be a genuine document. But till date no independent enquiry has been conducted to reach the conclusion as to which document of which party is a genuine document. Parties are also in agreement that for reaching the finality on this aspect i.e. which sale deed is a genuine document, an enquiry would have to be conducted and appropriate evidence would have to be led.

5. We are informed that the application filed by the petitioner being S.A. No. 570/2012 is still pending. It is agreed that all the three banks will appear in the aforesaid S.A and all banks would be entitled to lead evidence on the point of genuineness of the documents alone. It

would be open for the Debt Recovery Tribunal to send title deeds of all the banks and of the petitioner to the CFSL for seeking an opinion regarding genuineness of the title documents. Rights of all parties are kept open.

6. The petitioner is stated to be in possession. He will file an undertaking in this court within one week that he would not sell the property, encumber the property or create third party rights without prior permission of the concerned Debt Recovery Tribunal. Till the pendency of this S.A. and the enquiry with regard to the property bearing No. I-4/58, 2nd Floor, Sector-16, Rohini, the property in question will not be put to sale and the petition shall not be disposed of.
7. It is made clear that this order has been passed in the facts of this case where the borrower has mortgaged the property to three banks and sold the same to one private person. This arrangement is without prejudice to rights and contentions of all the parties.
8. Accordingly, the present writ petition stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JULY 14, 2015
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