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

+ W.P.(C)9964/2015

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Judgment dated 14th December, 2015

DEEPAK K. PALTA

..... Petitioner

Through : Mr.Sandeep Sethi, Sr. Adv. With Mr.
Jatin Mongia, Adv. Along with the
petitioner.

versus

ING VYSYS BANK LTD.

..... Respondent

Through : Mr. Vivek Sibal and Mr. Jitendder Ratta,
Adv.

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 under Articles 226 and 227 of the Constitution of India seeking a direction to quash the order dated 21.9.2015 passed by Debts Recovery Appellate Tribunal (hereinafter referred to as the '*Tribunal*') in I.A.Nos.544, 545 and 773/2015 in Inward No.369/2015.
2. Mr.Sethi, learned senior counsel appearing on behalf of the petitioner, submits that the petitioner has raised various legal issues, which require to be adjudicated by the Appellate Tribunal, and in case in the absence of a pre-deposit the appeal is dismissed, valuable rights of the petitioner would be jeopardised. Mr.Sethi further submits that the respondent has only given seven days' notice to the petitioner to repay the amount whereas as per the requirement of Section 3(2) of SARFAESI Act, sixty-days' notice is mandatory. Additionally, Mr.Sethi contends that the vehicles were forcibly repossessed from the possession of the petitioner on 23.9.2008 and

18.10.2008 i.e. before the expiry of 60 days period. It is also submitted by Mr.Sethi that when the vehicles were repossessed neither any Panchnama was prepared and nor any inventory was prepared and after vehicles were taken over from the possession of the petitioner, his source of livelihood came to an end.

3. Mr.Sibal, learned counsel for the respondent, submits to the contrary. Mr.Sibal submits that since the petitioner has defaulted in making the payment, the vehicles were himself handed over by the petitioner to the respondent. Counsel further submits that the vehicles were sold after following the due process of law, which is disputed by learned senior counsel for the petitioner, who submits that the vehicles have not been sold at the market rate, thereby causing immense loss to the petitioner. Mr.Sethi further submits that the vehicles were sold by the respondent less than thirty days' from the prescribed notice. Mr.Sethi also submits that the Bank would be secured by the property of the petitioner at Manali since the title deed of the said property stands deposited in favour of the Bank before the Debts Recovery Tribunal.
4. Learned counsel for the respondent submits that the respondent has already moved an application for withdrawal of the said documents. Mr.Sethi on instructions submits that the petitioner would withdraw the application filed by him seeking withdrawal of the title deeds before the DRT. Mr.Sethi on instructions also undertakes to the Court that the petitioner shall deposit Rs.15.00 lakhs with the Bank. As agreed, Rs.10.00 lakhs shall be deposited by the petitioner within four weeks from today and Rs.5.00 lakhs will be deposited within six weeks from today.
5. Accordingly, in view of the stand taken, the impugned order dated 21.9.2015 is set aside, subject to petitioner's depositing Rs.15.00 lakhs with the respondent-Bank and subject to petitioner complying with the

undertaking given to the Court, appellant tribunal would hear the matter on merits. Mr.Sibal also submits that no coercive action will be taken by the respondent till the hearing of the appeal before the DRAT.

6. Accordingly, petition stands disposed of in view of above. The petitioner shall append their signatures in token of acceptance.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 14, 2015

msr