

\$~17

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

+ W.P.(C) 10602/2015

% *Judgment dated 27th November, 2015*

KAMAL KISHORE SASPAL Petitioner
Through Mr. Amarjit Singh Bedi with Ms. Sapna
Malik, Advocates

versus

DEVELOPMENT CREDIT BANK LTD. & ORS Respondents
Through Mr. Hashmat Nabi, Advocate for
respondent no.1 bank.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 12.10.2015 by which the appeal filed by the petitioner before the Debts Recovery Appellate Tribunal (hereinafter referred to as the '*tribunal*') stands rejected.
2. Affidavit of service has been filed to show that dasti notice has been served upon respondents no.1, 2 and 3. Although Mr. Hashmat Nabi has appeared for respondent no.1, respondents no.2 and 3 auction purchasers have chosen not to appear in the matter.
3. With the consent of counsel for the parties, present writ petition is set down for final hearing and disposal.
4. Learned counsel for the petitioner submits that the property bearing Flat nos.105 and 106, Pocket -16, Block-D, Sector-3, Rohini, was mortgaged to the respondent Bank, however, the property was sold without complying with the statutory requirements and no notice was issued to the petitioners. Aggrieved by the action of the Bank, an SA was filed by the

Signature Not Verified
Digitally Signed
By:AMULYA

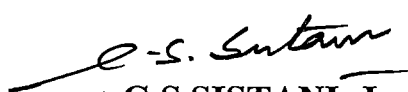
petitioner in which initially an order of *status quo* was passed on 30.4.2014 but later on the same was not continued and the same was set aside.

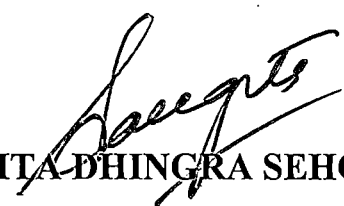
5. Learned counsel for the petitioner prays that the respondents no.2 and 3 may be restrained from creating any third party interest in the property bearing Flat Nos.105 and 106, Pocket-16, Block-D, Sector-3, Rohini. It is also the complaint of the petitioner that despite the order of *status quo*, the respondents did not comply with the same and the property was demolished and fresh construction carried out by respondents no.2 and 3.
6. Mr.Nabi, learned counsel for the respondent-Bank, submits that all the statutory requirements were followed. The demolition and construction has not been carried out by respondent no.1 but by the auction purchasers.
7. At this stage, learned counsel for the parties submit that since respondents no.2 and 3 have chosen not to appear in the matter, present writ petition may be disposed of with the following directions:
 - i) Since despite service of respondents no.2 and 3, they have chosen not to appear in the matter, without prejudice to the rights and contentions of all the parties, respondents no.2 and 3 are directed to maintain *status quo* with regard to the title and possession of the property in question.
 - ii) Leave granted to respondents no.2 and 3 to seek variation of this order in the proceedings before the DRT in the SA
 - iii) Petitioner undertakes to implead respondents no.2 and 3 as a party before the DRT.
8. Accordingly, writ petition stands disposed of with the above directions.

5

CM.APPL 27033/2015 & 27034/2015

9. Applications stand disposed of in view of the order passed in the writ petition.
10. Dasti to the parties.


G.S.SISTANI, J


SANGITA DHINGRA SEHGAL, J

NOVEMBER 27, 2015
pst