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

+ W.P.(C) 11167/2015

% *Judgment dated 1<sup>st</sup> December, 2015*

NEERA SINGH ..... Petitioner

Through : Mr.Mayank Wadhwa, Adv.

versus

JM FINANCE ASSET RECONSTRUCTION & ORS ..... Respondents

Through : Mr.Satish Kumar, Standing Counsel,  
respondent no.8.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

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

**CM APPL. 29014/2015.**

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

**W.P.(C) 11167/2015**

3. Present writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a direction to set aside/quash the Orders dated 12.10.2015 and 29.10.2015 passed by Debts Recovery Appellate Tribunal (hereinafter referred to as the '*Appellate Tribunal*') in Appeal No.127/2015. The Appellate Tribunal vide order dated 12.10.2015 dismissed the application of the petitioner while holding that the appellant is not a pauper nor she is in a position to pay court fee, and adjourned the appeal for further hearing. Further, vide order dated 29.10.2015, the Appellate Tribunal dismissed the review petition filed by the petitioner.
4. Learned counsel for the petitioner submits that the petitioner is a senior citizen, who is separated from her husband. Counsel further submits that the petitioner has been dragged into false and frivolous litigation by

respondent no.1 alleging her to be one of the personal guarantors for the alleged loan raised by respondent no.2. It is further submitted that the petitioner did not sign any document and the alleged signatures of the petitioner on the documents are forged and fabricated signatures. Counsel contends that the petitioner has no source of livelihood and she is solely dependent upon her children. It is further contended that the daughter of the petitioner had taken a study loan, which her daughter is required to be paid.

5. It may be noticed that in paras 3 and 4 of the Order dated 12.10.2015, the Appellate Tribunal has noticed as under:

*“In the application, it is averred that the appellant is an American citizen and aged about 65 years. The appellant states that she was made a name sake director in the Company by her erstwhile husband. Subsequently, the appellant had separated from her husband and she was left with negligible money. Reference is made to an insurance policy which was given to her to take care of her youngest daughter. It is stated that the financial status of the appellant has deteriorated over time. The appellant claims to be a single mother having no source of income. It is stated that vide final decree dated 12<sup>th</sup> April, 2009 passed by the United States Bankruptcy Court, Southern District of New York, the appellant has been adjudicated a bankrupt in terms of the law prevalent in the United States of America. It is stated that the appellant was discharged from all the liabilities except for the liabilities specifically stated in the decree.*

*In the application, the appellant herself disclosed that she is having three joint bank accounts with her daughter Ms. Leah Singh Waldman in Yes Bank, New Delhi, Citibank, New York and Chase Bank, New Jersey. Rs.40,000/- is still lying as balance in the joint account with Yes Bank, New Delhi. In the joint account in Citibank, New York, despite her daughter having withdrawn amount from the said bank, 1000 US Dollars are lying as balance and 730 US Dollars as balance in Chase Bank, New Jersey. Accordingly, it cannot be said that the appellant is a pauper and is not in a position to pay the court-fee. The prayer in the application is*

*accordingly declined. Two weeks time is allowed to deposit the court-fee.”*

6. After some hearing, learned counsel for the petitioner submits that, at this stage, the petitioner would be satisfied if eight week's time is granted to her to make arrangement for deposit of court fees.
7. Accordingly, as prayed and to meet the ends of justice, eight week's time is granted to the petitioner to deposit court fees. In case, the petitioner deposits the Court fees within eight weeks from today, the appeal filed by the petitioner before the Appellate Tribunal will be taken up for hearing. We make it clear that neither we have expressed any opinion on the merits of the matter nor any opinion with regard to pre-deposit.
8. Writ petition stands disposed of in view of above.

**CM APPL. 29013/2015 (STAY)**

9. Application stands disposed of in view of the order passed in the writ petition.
10. DASTI.

**G.S.SISTANI, J**

**SANGITA DHINGRA SEHGAL, J**

**DECEMBER 01, 2015**

msr