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

+ W.P.(C) 6405/2016

MAHESH CHAND GARG & ORS

..... Petitioners

Represented by: Mr.Sanjiv Kakra, Advocate
with Mr.Bheem Sain Jain,
Mr.Ishaan Aggarwal and
Mr.Anish Chawla, Advocates.

versus

PUNJAB NATIONAL BANK & ORS

..... Respondents

Represented by: Mr.Hashmat Nabi, Advocate
for R-1.
Mr.K.K.Sharma, Senior
Advocate instructed by
Mr.Vikash Sethi, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **25.07.2016**

CAV.No.604/2016

1. The caveat has been lodged by respondent no.2.
2. Notice of motion alongwith copy of writ petition has been served upon respondent No.2.
3. Counsel as above appears for respondent No.2.
4. The caveat is discharged.

CM No.26239/2016

Allowed subject to all just exceptions.

W.P.(C) 6405/2016 & CM No.26238/2016 (Stay)

1. The petitioners and respondents No.3 to 5 have a commonality of interest. They are the legal heirs of deceased Jai Bhagwan Garg. The subject property sought to be attached and auctioned was the property of the petitioners and Jai Bhagwan Garg.
2. The petitioners are aggrieved by the impugned order dated July 12, 2016 passed by DRT-III, Delhi.
3. Reason to directly file the writ petition in this Court notwithstanding remedy of appeal available under SARFAESI Act is non-holding of the Court by learned DRAT.
4. It is not in dispute that the vacancy on account of superannuation of the Chairperson in the DRAT at Delhi has not been filled up but the person holding charge as DRAT at Kolkata has been vested with the power to function as DRAT at Delhi. The person concerned would be presiding over DRAT, Delhi from August 01, 2016 till at least August 10, 2016.
5. Vide impugned order, a receiver has been appointed with a direction that within fifteen days the possession of the property would be handed over to the receiver. The fifteen days would expire on July 27, 2016.
6. Declining to deal with the merits of the impugned order, we dispose of the petition directing that the receiver appointed by the Court would not proceed to take possession of the secured assets till August 05, 2016. We further direct that upon the petitioners filing an appeal before learned DRAT against the impugned order dated July 12, 2016 the registry of DRAT shall ensure that the appeal is listed before the learned DRAT on August 01, 2016

or latest by August 02, 2016 provided the appeal is filed latest by July 28, 2016.

7. No costs.

8. Copy of the order be given *dasti* to learned counsel for the parties.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

JULY 25, 2016

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