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

+ W.P.(C) 7754/2014

M./S. SHREYA DEVELOPWELL PVT LTD. Petitioner

Represented by: Mr.Jaspreet S.Rai, Advocate with
Mr.Rohit Nagpal, Advocate

versus

IDBI BANK LTD. & ORS. Respondents

Represented by: Mr.Shashank Sharma, Advocate for
Mr.Rajeev Agarwal, Advocate for
R-1
Mr.Raminder Singh Sahota, Advocate
for R-7, R-9, R-12, R-18, R-20, R-23
and R-75
Ms.Rekha Palli, Sr.Advocate
(AMICUS) instructed by Ms.Shruti
Munjal and Ms.Garima Sachdeva,
Advocates

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **20.01.2016**

CM No.2365/2015

The application is not pressed by learned counsel for the writ petitioner and hence is disposed of as withdrawn.

CM No.12865/2015

Impleadment sought by Hindon Heights Members Association is allowed for the reason the members of the association would be affected by any order which we may pass in the writ petition.

CM No.6045/2015

Dismissed as not pressed by learned counsel for the petitioner.

CM No.18150/2015

Dismissed as not pressed as stated by Jaspreet S.Rai, Advocate who has filed the application.

W.P.(C) No.7754/2014

1. Challenge is to the order dated August 19, 2014 dismissing appeal No...../2013. We are constrained to note complete callousness in the working of the Debts Recovery Appellate Tribunal Delhi. Appeals are being disposed of without assigning any number and this Court is confronted with orders which record : '*In appeal No...../2013*'. As in the instant case.
2. We direct the Chairman of the Debts Recovery Appellate Tribunal to pass an office order directing the Registry to immediately assign a number to an appeal as also a number to a miscellaneous application filed.
3. Reverting to the facts which we need to note to dispose of the writ petition, we note that the builder M/s.Shreya Developers Pvt. Ltd. had undertaken a project to construct residential flats on a parcel of land at Raj Nagar, Ghaziabad. Various towers having between 80 to 100 flats had to be constructed. Different buyers of the flats approached the builder and most of the buyers were interested in a finance. Approaching different financial institutions, the buyers obtained a finance from financial institutions with M/s.Shreya Developers Pvt. Ltd. joining as a party to the agreements.

4. IDBI Bank Ltd. had obtained a decree by initiating proceedings under Section 19 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 pertaining to finances made available to 27 flat buyers. The decree obtained finality and was put into execution. And we are surprised to note that rather than attached the 27 specific flats which were offered by way of security, the Recovery Officer proceeded to attach all the flats, which are 80 in number, in a tower being constructed and named Jasmine-III.
5. It needs hardly any argument to demolish the reasoning in the impugned order dated August 19, 2014 passed by the Debts Recovery Appellate Tribunal which has upheld the attachment observing that if individual flat owners have a grievance they may proceed in accordance with law. It is apparent to a person with even elementary knowledge of law that in a multi-storeyed building having a large number of residential flats only those flats can be attached and put up for sale pursuant to a decree passed in which the judgment debtor has an interest. A property of other persons cannot be attached.
6. Since in the instant case the flats of the defaulters of the bank are known, in the execution proceedings only said flats can be attached i.e. the flats booked in the names of the persons against whom the bank has a decree.
7. The attachment of the building popularly known as Jasmine-III being constructed by M/s.Shreya Developers Pvt. Ltd. is accordingly set aside, with a clarification that the respondent No.1 bank would be entitled to file a fresh application by way of execution praying for attachment of the specific flats concerning such persons against whom it has a decree.
8. No costs.

CM No.18258/2014

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

JANUARY 20, 2016

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