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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9287/2015 & CM No.21329/2015 (for stay)
PAWAN TANWAR Petitioner
Through: Mr. Sanjay Bhasin, Adv.

Versus

KARNATAKA BANK Respondent
Through: Mr. Ajay Bahl & Ms. Rigasha
Takkur, Advs.
Mr. Suresh Dutt Dobhal with Mr.
Yugank Goel & Mr. Shohit
Chaudhary, Advs. for Phoenix ARC
Pvt. Ltd.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **13.01.2016**

1. This petition was filed impugning the order dated 7th September, 2015 of the Chief Metropolitan Magistrate (CMM) (West), Tis Hazari Courts, Delhi on the objections preferred by the petitioner to the application of the respondent under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI).
2. It was *inter alia* the contention of the petitioner that he is the tenant in property no.E-52, Block-E, New Multan Nagar, Delhi, for taking possession whereof the learned CMM had appointed the Receiver and that his possession was thus protected.
3. The learned CMM dismissed the objections of the petitioner holding the lease deed under which the petitioner claimed to be a tenant in the

property which was the secured asset, to be an afterthought.

4. The petition was entertained and on 5th November, 2015, the counsel for the respondent Bank stated that possession of the property shall not be taken from the petitioner.

5. Today, the counsel for Phoenix ARC Pvt. Ltd. States that Phoenix ARC Pvt. Ltd. has purchased / acquired the non performing asset aforesaid of the respondent Bank and is thus required to be substituted in place of the respondent Bank.

6. The counsel for the respondent Bank confirms.

7. However, finding that the lease deed under which the petitioner claims to be a tenant in the property though unregistered was also for a period of three years i.e. till 20th February, 2016 only, it has been enquired from the counsel for the petitioner that even if the contention of the petitioner were to be correct, the petitioner cannot possibly claim any right to continue in possession of the premises as a tenant after 20th February, 2016.

8. The counsel for the petitioner agrees and states that the petitioner will hand over vacant peaceful physical possession of the property on or before 28th February, 2016.

9. The counsel for the respondent Bank as well as the counsel for Phoenix ARC Pvt. Ltd. agree that the possession has to be so handed over to Phoenix ARC Pvt. Ltd.

10. On enquiry, it is informed that the subject property being property no. E-52, Block-E, New Multan Nagar, Delhi comprises of ground and first floors and one room on the terrace above the first floor.

11. The counsel for the petitioner on enquiry states that the petitioner is in possession of the entire ground floor of the property and has no concern with the first floor or the terrace above the first floor and the accommodation therein.

12. The petitioner present in Court as identified by his counsel undertakes to this Court to handover vacant peaceful physical possession of the entire ground floor of the property aforesaid, as recorded in the documents of the secured asset, to Phoenix ARC Pvt. Ltd. on or before 20th February, 2016.

13. The undertaking of the petitioner is accepted and the petitioner is ordered to be bound thereby and is informed of the consequence of breach of undertaking given to the Court.

14. The counsel for the respondent Bank and the counsel for the Phoenix ARC Pvt. Ltd. state that though the petitioner, even if a tenant has no right to protect his possession as held in *Harshad Govardhan Sondagar Vs. International Assets Reconstruction Co. Ltd.* (2014) 6 SCC 1, they have no objection to the aforesaid only for the reason of the petitioner seeking time till 20th February, 2016 only.

15. The counsel for the respondent Bank and the counsel for Phoenix ARC Pvt. Ltd. further state that they shall now proceed to take possession of the first floor and above of the property forthwith.

16. The petition is disposed of.

No costs.

RAJIV SAHAI ENDLAW, J

JANUARY 13, 2016

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