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

+ CM(M) 258/2017 & C.M.8586/2017

HDFC BANK LTD

..... Petitioner

Through: Mr. Kunal Tandon and Mr. Chetan
Roy, Advocates

versus

INDUS POLYFILMS PVT LTD & ORS

..... Respondents

Through: Ms. Ripu Adlakha, Advocate for
R- 1 & 3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **16.03.2017**

Received on transfer.

Impugned order of 4th January, 2017 directs petitioner to approach the Company Court to lift the embargo put upon the property in question by the Company Court.

The challenge to impugned order in this petition is on the ground that the Company Court has no jurisdiction over the subject matter of property in question as it is covered by *The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002* (hereinafter referred to as *SARFAESI Act*). To submit so, learned counsel for petitioner relies upon Supreme Court's decision in *Pegasus Assets Reconstruction Private Limited v. Haryana Concast Limited and Another* (2016) 4 SCC 47.

During the course of hearing, learned counsel for respondents has brought to the notice of this Court that petitioner has complied with order

of 4th January, 2017 and an application has been filed by petitioner before the Company Court to point out that property in question does not come within the jurisdiction of Company Court as it comes within the purview of the SARFAESI Act, 2002. It is pointed out by learned counsel for petitioner that the recourse to Company Court has been made without prejudice to the rights of petitioner.

Be that as it may. It is open to the petitioner to bring Supreme Court's decision in *Pegasus Assets Reconstruction Private Limited v. Haryana Concast Limited and Another (supra)* to the notice of the Company Court and thereafter obtain orders therefrom.

Since the impugned order suffers from no illegality, therefore, this petition and application are disposed of with liberty to the parties to avail of the remedies before the Company Court.

(SUNIL GAUR)
JUDGE

MARCH 16, 2017
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