$~Spl. Bench

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

\+ W.P.(C) 2095/2017 & CM No. 9154-9156/2017

PINAKI RANJAN BISWAS & ANR. ..... Petitioners
Through: Mr. Vijay Kingar, Adv.

versus

BANK OF MAHARASHTRA & ORS. ..... Respondents
Through: Mr. Abhindra Maheshwari and Ms. Sudha Shukla, Advs. for R-1/ Bank.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 20.03.2017

This petition is received from the concerned Bench (headed by Hon'ble Ms. Justice Indira Banerjee), as the said Bench is not in session today. On the previous dates too, the Bench did not assemble. On the first date of hearing, however, an interim protection, by way of status quo order, was made by another Bench.

The writ petitioners' grievance is with respect to an order under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) in respect of property bearing no. MCD No. 943/8, Plot No. 109, Part of Khasra No. 317/2 Khewat No. 118/308, measuring 200 sq. yds. situated at Arjun Nagar, Kotla Mubarakpur, New Delhi – 110003. The petitioners submit that pending their appeal the pre-deposit amount directed by the DRAT in the circumstances of the case, as a condition for the adjudication of their appeal before the DRAT, is oppressive. The petitioners rely upon a judgment/ order of this Court dated 15.02.2017 passed in WP(C) 1353/2017, titled: ***Omwati & Ors. vs Bank of Maharashtra & Anr.***

The learned counsel for respondent no.1 bank, who appears on advance notice, opposes the proceedings. However, he does not dispute that in ***Omwati*** (supra) case this Court had made an order balancing equities as it were, taking note of the provisions of Section 18 of the SARFAESI.

In the circumstances, following the order in ***Omwati*** (supra), the petitioners' appeal shall be considered in accordance with law without a pre-deposit. Till the consideration of the application for stay/ status quo, no action towards disposal of the suit property shall be taken. The petitioners are also directed not to dispose off the property or encumber it in any manner whatsoever.

It was stated during the course of hearing that the title deeds of the suit property are with the Bank of Nainital. The petitioners shall ensure that a letter, describing the title deeds, along with the loan advanced particulars is furnished to the respondent Bank, which shall be considered sufficient for the purpose of the present petition. In addition, the petitioners shall furnish a certified copy of the title deeds of the suit property to the respondent-bank.

The writ petition is disposed of in the above terms.

Dasti.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 20, 2017/kk