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

+ **W.P.(C) 2225/2017**

M/S SIDDHI VINAYAK PLASTOCHEM PVT. LTD. Petitioner

Through: **Mr. S. Singh and Mr. Murari Babu,**
Advocates

versus

TAMILNAND MERCANTILE BANK LTD. Respondent

Through: **Mr. Pramod Kumar, Adv.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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09.03.2017

CM No. 9698/2017 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) No. 2225/2017 & CM No. 9697/2017

The petitioner has filed the present petition impugning the possession notice dated 21.01.2017 issued by the Court Receiver consequent to order dated 30.01.2017 passed by the court of Chief Metropolitan Magistrate, East District, Kardardooma Courts, Delhi in Misc. Crl. No. 7/2017 and further seeks a restraint on the respondent bank from taking over possession of Residential Flat at B-206, Narwana Apartment, Plot No. 89, I P Extension, Patparganj, Delhi-110092.

It is contended by the counsel for petitioner that the possession notice is dated 21.01.2017 whereas the order whereby the court commissioner has been directed to take over possession is dated

30.01.2017.

It is contended that the order stipulates that 15 days notice would be given to the petitioner prior to taking over possession. It is submitted that the notice was received on 03.03.2017.

I am of the view that since the proceedings have been initiated by the Chief Metropolitan Magistrate under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the Act), the remedy, if any, of the petitioner would be take appropriate steps under the Act and a petition under Section 226 of the Constitution of India, at this stage, would not lie.

Learned counsel for the petitioner seeks leave to withdraw the petition with liberty to approach the concerned Debt Recovery Tribunal with appropriate application under the Act.

Learned counsel, however, submits that since the notice was received on 03.03.2017, reasonable time may be granted to the petitioner to file such an application.

In view of the above, the writ petition is dismissed as withdrawn. However, it is directed that the Court Receiver shall defer the taking over of the possession to after 18.03.2017.

Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

MARCH 09, 2017

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