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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3540/2017**
TARAWATI AND ORS. Petitioners
Through: Mr. Anand Aggarwal, Advocate.

versus

BANK OF INDIA AND ORS Respondents
Through: Mr. Ashish Rana, Advocate for
R-1/Bank of India.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **24.04.2017**

CM 15443/2017 (exemption)

Subject to the petitioners filing the certified/typed/legible copies of the documents annexed with the petition within four weeks, the application is allowed and disposed of.

W.P.(C) 3540/2017

1. The petitioners are aggrieved by the action of the respondent No.1/Bank of India of approaching the Receiver appointed by the learned CMM vide order dated 28.2.2017, in Application No. 150/1/16, filed by the respondent No.1/Bank for taking over physical possession of their residential premises RZ-48, Street No.1, Nasirpur, Durga Park, Delhi.
2. Learned counsel for the petitioners states that aggrieved by the action of the respondent No.1/Bank of insisting on taking over the physical possession of the subject premises through the Receiver, the petitioners had filed an application (SA No. 66/2017) before DRT-II, Delhi with a stay application on which notice was issued to the respondent/Bank, for

04.5.2017.

3. A perusal of the order dated 04.5.2017 passed by the DRT-II reveals that learned counsel for the respondent No.1/Bank was present before said forum and he was called upon to file a reply. Hearing on the interim application has been adjourned to 04.5.2017, but the DRT-II appears to have declined granting any interim relief to the petitioners.

4. Aggrieved by the same, the petitioners have preferred an appeal before the DRAT on the very same day i.e., on 21.4.2017. Leaned counsel for the petitioners states that the said appeal is scheduled to be listed before the learned DRAT tomorrow i.e., on 25.4.2017 and in the meantime, the Receiver shall be visiting the subject premises this afternoon for taking over the physical possession of the subject premises, thus making the appeal infructuous.

5. On the first call, none was present on behalf of the respondent No.1 despite service of notice on the nominated counsel of the Bank.

6. Due to the urgency expressed by the learned counsel for the petitioners, the matters was passed over to enable him to contact learned counsel for the respondent No. 1/Bank.

7. On the second call, learned counsel for the respondent No.1/Bank appears and states that he has been requested by the other side to appear and he has not been furnished an advance copy of the paper book. A complete set of the paper book be furnished to the counsel for the respondent No.1/Bank today itself.

8. It has been fairly stated by learned counsel for the respondent No.1/Bank that the appeal filed by the petitioner has yet to be listed for

admission before the DRAT, but the stay application filed by them is listed before DRT-II on 04.5.2017 and the Presiding Officer DRT-II may be directed to hear and dispose of the same on the date fixed.

9. Accordingly, without prejudice to the rights and contentions of the parties, it is directed that the Receiver appointed vide order dated 28.2.2017, shall not take any coercive steps in respect of the subject premises till the DRT-II decides the pending stay application, filed by the petitioners in SA 66/2017. The said decision shall be expedited.

10. The petition is disposed of.

DASTI to parties under the signatures of the Court Master.



HIMA KOHLI, J

SANGITA DHINGRA SEHGAL, J

APRIL 24, 2017/ap