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

+ **W.P.(C) 5330/2017**

SMT. LAJWANTI

..... Petitioner

Through : Mr. Dhanesh Relan and Mr. A.
Bhandari, Advs.

versus

BANK OF BARODA & ORS.

..... Respondents

Through : Advocate (name not given)

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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16.06.2017

CM Nos.22574/2017(exemption)

Allowed, subject to all just exceptions.

W.P.(C) 5330/2017 & CM Nos.22573/2017(stay)

1. The petitioner by the present petition seeks a mandamus thereby restraining respondent no. 1 – Bank of Baroda, inter-alia, from taking possession of DDA LIG Flat No. A-1/166, Ground Floor, Lawrence Road, Delhi.

2. It is contended by the learned counsel for the petitioner that petitioner is a *bonafide* purchaser without notice of any defect from the alleged principal borrower.

3. He submits that he has already filed an appeal under Section 18 (1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the Debt Recovery

Appellate Tribunal (DRAT for short) which is scheduled to be listed on 27.06.2017.

4. An apprehension is expressed that prior to the appeal or the application for interim protection being taken up by the DRAT, the respondent-Bank (Bank of Baroda) may take physical possession of the subject property.

5. Learned counsel for respondent bank appearing on advance notice submits that the respondent bank is ready to settle the disputes with the borrower and in case the borrower fails to settle with the respondent bank by 19.06.2017, steps would be taken for taking physical possession, which would, *inter-alia*, include the issuance of notice.

6. He submits that there is no likelihood of any physical possession being taken prior to 27.06.2017 when the appeal of the petitioner is listed.

7. The petition is accordingly disposed of permitting the petitioner to pursue his appeal before the DRAT. However, it is directed that respondent bank shall not physical possession of the subject property till the appeal of the petitioner is taken up on 27.06.2017 or on such date as DRAT may fix.

8. It is clarified that in case the bench of DRAT does not assemble or the appeal of the petitioner is not taken up for hearing, the interim order shall continue till the appeal of the petitioner is taken up for

hearing. However, in case the appeal is taken up for hearing and the bench refuses to grant interim protection, the interim protection granted by this order shall stand vacated.

9. It is further clarified that in the meantime, the respondent-bank shall be at liberty to take such preliminary steps as may be necessary for enforcement of its rights, which may *inter-alia*, include issuance of notice etc.. However, the physical possession of the property shall not be taken of the subject property.

10. It is further clarified that DRAT would be at liberty to consider the appeal of the petitioner and the prayer for grant of interim protection without being influenced by anything stated in this order.

11. This would be without prejudice to the settlement talks between the principal borrower and the respondent bank.

12. The writ petition is accordingly disposed of.

13. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA
(Vacation Judge)

A. K. CHAWLA
(Vacation Judge)

JUNE 16, 2017
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