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

\+ **W.P. (C) No. 6837/2017 & C.M. No. 28463/2017**

ARVIND BHARDWAJ ..... Petitioner

Through : Mr. Sameer Dewan, Advocate.

versus

CHIEF COMMISSIONER INCOME TAX 2 & ORS. ..... Respondents

Through : Mr. Ashok K. Manchanda, Mr. Raghvendra Singh, Senior Standing Counsels for Revnue.
Mr. Sanjay Bhatt, Advocate for IDBI/R2.
Mr. Amit Singh, Advocate for GNCTD/R3.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% **22.08.2017**

1. On 9th August, 2017, the following order was passed:

> "2. Notice. Mr. Ashok K. Manchanda, learned counsel accepts notice for the Income Tax Department. Mr. Abhishek Anand, learned counsel accepts notice for Respondent No.2/IDBI Bank and confirms that an order, similar to the one already passed in respect of the other property i.e. the order dated 13th July, 2016 in W.P.(C) No.3430/2016

(Suresh Kumar Goyal v. Chief Commissioner Income Tax-2), can be passed in the present case as well.

3. It must be noted here that the said order concerned the property at Plot No. 84, Ground Floor, HU Block, Pitampura, New Delhi-110088. The present petition deals with the basement portion of the same property.

4. However, Mr. Ashok Manchanda learned counsel for the Income Tax Department states that he needs time to obtain instructions to verify the facts. At his request, list on 22nd August, 2017."

2. Mr. Ashok Manchanda, learned counsel for the Income Tax Department is unable to dispute that the attachment proceedings *qua* both the Basement as well as the Ground Floor of the property in question took place simultaneously. However, he states that the notice issued on 24th May, 2012 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act ') did not become effective till it was published on 24th January, 2015.

3. Learned counsel for the Petitioner points out that the notice under Section 13 (2) of the SARFAESI Act was issued on 24th May 2012, much before the attachment order passed by the Department on

25th November 2013. What was published on 24th January 2015 was the auction notice.

4. The Court does not find any distinction between the Ground Floor and at the Basement of the same property in question considering that all the proceedings in respect of both the portions have taken place simultaneously. It is plain that the SARFEASI Act notice was issued much prior to the orders of the Income Tax Department. Consequently, for the reasons elaborated in the judgment dated 13th July 2016 in the W.P. (C) No. 3430/2016 ***(Suresh Kumar Goyal v. Chief Commissioner Income Tax-2)***, the attachment order dated 25th November 2013 issued by the Tax Recovery Officer CIT -7, New Delhi insofar as it relates to the entire basement of the property at 84, HU Block, Pitampura, New Delhi is hereby quashed. The Sub-Registrar VI-A, at Rohini, Delhi is directed, within a period not later than 4 weeks from today, to proceed to register the Sale Deed executed by the IDBI in favour of the Petitioner in respect of entire Basement of the property in question.

5. The writ petition and the application are disposed of in the above terms.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

AUGUST 22, 2017
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