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

+ **W.P.(C) 7554/2017 & CM No. 31151/2017**

M/S UDAY ESTATES PVT. LTD.

..... Petitioner

Through: Mr. A.K. Mata, Sr. Advocate along
with Mr. Sanat Kumar, Sr. Advocate
with Mr. Sanjay Sharma, Advocate .

versus

**ASSET RECONSTRUCTION COMPANY (INDIA) LIMITED
(ARCIL)**

..... Respondent

Through: Mr. Ateev Mathur, Advocate along
with Mr. Ajay Monga, Ms. Jagriti
Ahuja and Mr. Amol Sharma,
Advocates.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% 28.08.2017

1. The petitioner/Company is aggrieved by the orders dated 08.06.2017 and 04.08.2017 passed by the learned CMM's, Karkardooma and Tis Hazari Courts respectively, appointing two Receivers in respect of two immovable property that stand mortgaged with the respondent/ARCIL and the consequent notices of possession issued by the Receivers, for taking over the said secured assets.

2. The petitioner also seeks direction to the learned DRAT, for pronouncing a verdict on an interim application filed by it with Appeal No.

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318/2016 for seeking waiver of the pre-deposit, in which order was reserved on 06.10.2016 and subsequently, on 01.08.2017.

3. It transpires in the course of arguments that the petitioner has already challenged the orders passed by the learned CMMs before the DRT and vide order dated 19.07.2017, the said applications were dismissed as not maintainable. Aggrieved by the said order, the petitioner has moved the DRAT by filing a miscellaneous application in the pending appeal (Annexure P-6).

4. It is submitted by Mr. Mata, learned Senior counsel appearing for the petitioner that the said application was mentioned before the learned DRAT on 18.8.2017, though it does not find any specific reference in the said order (Annexure P-7). The said submission is not denied by the other side.

5. The primary grievance of the petitioner is that while its appeal is pending till the application filed for waiver of pre-deposit is decided, the Receivers appointed by the learned CMMs are proceeding to take over physical possession of the mortgaged properties on 04.09.2017. It is, therefore, stated that this shall render infructuous the appeal of the petitioner and learned counsel requests that the learned DRAT be directed to take an expeditious decision on the pending application for waiver of pre-deposit.

6. It is an undisputed position that orders were reserved on the pre-deposit application filed by the petitioner before the DRAT on 06.10.2016, Subsequently, a fresh application was filed by the petitioner before the DRAT for expeditious disposal of the said application, which was listed on 01.08.2017 and orders were again reserved on the same date.

7. In view of the urgency expressed, we make a request to the learned

DRAT to pass an expeditious order on the pending application filed by the petitioner for seeking waiver of the pre-deposit amount, within four weeks from today.

8. At this stage, a request for interim protection is made in behalf of the petitioner. We have enquired from learned counsel for the petitioner as to whether the petitioner is willing to deposit at least 25% out of a sum of Rs. 110 crores that, according to the respondent, was due and payable in the year 2014. Learned counsel for the respondent has clarified that a sum of Rs. 15.75 crores was deposited by the respondent by the year 2014, whereafter not a penny has been paid.

9. The matter was passed over once at the request of the learned counsel for the petitioner to enable the briefing counsel to obtain instructions. On pass over, he states that the petitioner can deposit only a sum of Rs. 3 crores, if given 10 days time.

12. In such circumstances, we are not inclined to grant any stay in favour of the petitioner.

13. The petition is disposed of along with the pending application.

HIMA KOHLI, J

DEEPA SHARMA, J

AUGUST 28, 2017/ss