$~61

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

\+ CM(M) 1201/2017

ICICI BANK LTD ..... Petitioner

Through: Mr. Punit K. Bhalla, Adv.

Versus

REENA DEVI & ANR ..... Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R

% **30.10.2017**

CM No.38795/2017 (for exemption)

1. Allowed, subject to just exceptions.

2. The application is disposed of.

CM(M) 1201/2017

3. This petition under Article 227 of the Constitution of India impugns the order [dated 14th October, 2017 in CS No.2618/2017 of the Court of Additional District Judge (ADJ)-09 (Central), Tis Hazari Courts, Delhi], though issuing summons of the suit filed by the petitioner/plaintiff, not passing any order on the application of the petitioner/plaintiff under Order XL Rule 1 of the Code of Civil Procedure, 1908 (CPC) for appointment of Receiver for taking into custody the hypothecated vehicle with power to sell the same.

4. Though the impugned order does not even issue notice of the application but the counsel for the petitioner/plaintiff assures that the application accompanied the plaint and is on the suit record.

5. I have vide order dated 4th August, 2017 in CM(M) Nos.825/2017, 831/2017, 834/2017, 835/2017 & 838/2017 arising from similar orders in other similar suits filed by the petitioner/plaintiff, and following the order dated 17th July, 2017 in CM(M) No.392/2017 titled ***ICICI Bank Ltd. Vs. Rajender Kumar***, disposed of the said petitions by passing orders on similar applications accompanying those suits.

6. Accordingly, this petition also is allowed.

7. Mr. Ajeet Singh / Rajesh Lavania, representative of the petitioner/plaintiff is appointed as Receiver with the following directions:

(I) The Receiver, while taking possession of the subject vehicle, will ensure that the due courtesies are extended to the respondent/ defendant;

(II) The Receiver will also keep in mind the time and the place where the subject vehicle is taken possession of. If, at the time of taking possession, the respondent/defendant were to pay the sums, which are due and payable then, the Receiver will issue a receipt in that behalf to the respondent/defendant and release the vehicle on superdari to him;

(III) In case police assistance is required, the Receiver will approach the Station House Officer manning the nearest police station, who, in such an eventuality, shall render due assistance to enable compliance in the matter;

(IV) The Receiver will file his report with the Trial Court within ten days of taking possession of the subject vehicle;

(V) In case the Receiver is successful in obtaining possession of the subject vehicle before the next date of hearing, the Trial Court will pass appropriate orders on the next date of hearing; and,

(VI) However, in case the subject vehicle is not traced till the next date of hearing, the Trial Court will, accordingly, extend the period for locating the vehicle and in that behalf, pass appropriate orders in the pending application.

8. The counsel for the petitioner / plaintiff has also cited the order dated 14th July, 2015 in FAO No.51/2015 titled ***ICICI Bank Ltd. Vs. Rohit Kumar*** and contends that this Court therein also permitted sale of the seized hypothecated asset after a reasonable time. It is contended that the prayer of the petitioner / plaintiff, in a large number of other similar suits, for sale of the seized asset is not being disposed of expeditiously resulting in the seized asset depreciating in value.

9. The learned ADJ is also requested to, within one month of service of the respondent / defendant, decide the prayer of the petitioner / plaintiff for sale of the seized asset.

10. The petition is disposed of.

No costs.

Dasti.

RAJIV SAHAI ENDLAW, J

OCTOBER 30, 2017
'gsr'..