

\$~2

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

+ LPA 747/2017 & CM APPL. Nos. 42823-42824/2017

GOPI RAM Appellant

Through: Mr. R L Kohli, Advocate

versus

SYNDICATE BANK & ANR Respondents

Through: Mr. V Sudeer, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **28.11.2017**

1. The appellant submits that by the impugned judgment, the Single Judge relegated him to the remedy of an appeal under Section 17 (4A) of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest (SARFACI) Act, 2002.

2. The appellant contends that the Chief Metropolitan Magistrate (CMM) who decided his objections to the Bank's proposal to take possession of the property, are untenable and contrary to the evidence.

3. The Single Judge noticed Section 17 (4A) which is inserted in the SARFACI Act with effect from 01.09.2016 and was of the opinion that having regard to the circumstance of the case, the appellant/writ petitioner should exhaust that remedy.

4. This Court is of the opinion that the appellant no doubt has highlighted certain facts which appear to not have been gone into by

the Chief Metropolitan Magistrate (CMM), however, in the facts of the case, the Court is of the opinion that the course of action as available to the appellant and indicated by the Single Judge, cannot be faulted with. The course indicted by the Single Judge having regard to the wording/text of Section 17 (4A) is tenable.

5. In the circumstances, in the event the appellant files an appeal and seeks recourse to Section 17(4A) by filing the appeal before the DRT within four weeks from today, the same shall be decided on its merits as expeditiously as possible.

6. The counsel for the Bank who appear on advance notice also does not dispute this position.

7. The appellant shall however be protected from any coercive action/dispossession, till the decision is rendered by the DRT in this regard in the appeal preferred before it.

8. In the circumstances, the direction to pay cost is hereby set aside.

9. The appeal is disposed of.

10. Copy of order *Dasti* under signatures of Court Master.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 28, 2017/P