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

% Judgment delivered on: 15.05.2018

\+ CRL.M.C. 1282/2018 & Crl. M.A. 4684/2018

AU SMALL FINANCE BANK FORMERLY
KNOWN AS AU FINANCIERS INDIA LTD. ..... Petitioner

versus

SATYABIR SINGH & ANR ..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Punit K. Bhalla, Adv.

For the Respondents : Ms. Pooja Wason, Adv. for R-1, 2

CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT
15.05.2018

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner impugns order dated 09.03.2018 of the Revisional Court, whereby, the Revisional Court, while issuing notice, has declined to grant a stay of the order impugned therein, i.e., order dated 27.02.2018 of the Trial Court, whereby, the Trial Court, on an application under Section 156(3) Cr.P.C. had directed the Police to investigate after formally registering an FIR.

2. Learned counsel for the petitioner contends that the complaint was filed by the respondents alleging that the petitioner in connivance with other individuals had forged and fabricated the loan documents showing the properties, agreed to be purchased by the respondents, as mortgaged properties.

3. It is contended by the learned counsel for the petitioner that in May 2015, borrower M/s. Delhi Sweets Pvt. Ltd. alongwth co-borrowers — Jitender Jain, Anjana Jain and Saroj Jain had obtained a term loan facility in the sum of Rs.5 crores for purchase of the mortgaged subject properties, i.e., Plot Nos.751 and 752 at Narela Industrial Complex, D.S.I.D.C., Narela.

4. It is contended that there was litigation between the petitioner as well as the borrowers; as the borrowers had defaulted. Subsequently, it has come to light that the borrowers are alleged to have executed a Power of Attorney, Agreement to Sell and other contemporaneous sale documents attempting to sell the subject properties to the respondents.

5. The respondents have also filed objections in the various proceedings initiated by the petitioner to secure its rights. Thereafter, the respondents filed the subject complaint alleging that the two properties, which were mortgaged, have been interpolated in the loan documents subsequently and forgery had been committed at the end of the petitioner Corporation. The basis of allegation is that when the

loan documents were executed by the borrowers, there was no title in favour of the borrowers, which title fructified a few days later by registration of Sale Deeds in favour of the Borrowers.

6. Learned counsel for the petitioner submits that it is a normal practice that when a loan is sought by a borrower against a property, which the borrower seeks to buy, loan documents are executed mentioning that property as a mortgaged property prior to the registration of the Sale Deed and the transaction is complete when the Sale Deed is registered and the sanctioned amount is handed over directly to the seller of the property on behalf of the borrower.

7. Learned counsel for the petitioner submits that the Trial Court erred in not noticing the said transaction and directed registration of an FIR.

8. Learned counsel for the petitioner further submits that there is no offence committed by the petitioner and there appears to be a connivance between the borrowers and the respondents, wherein, the entire blame is sought to be shifted on the petitioner Company and the Borrowers who are alleged to have executed the sale documents in favour of the Respondents have not even been arrayed as accused.

9. While issuing notice in the subject petition, operation of order dated 27.02.2018 of the trial court was stayed by this court by order dated 15.03.2018.

10. Learned counsel for the respondent submits that without admitting or accepting any of the averments of the petitioner referred to above she has no objection in case the interim order is continued till the disposal of the revision petition before the Revisional court.

11. In view of the above, interim order dated 15.03.2018 is confirmed till the disposal of the revision petition pending before the Revisional court.

12. It is clarified that the Revisional court would be free to consider the Revision Petition on merits without being influenced by anything stated in this Court.

13. Petition is disposed of in the above terms.

14. Order *Dasti* under signatures of Court Master.

SANJEEV SACHDEVA, J

15 MAY, 2018
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