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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on:28.05.2018

W.P.(C) 5775/2018

DHARAMVIR SHARMA & ANR.

..... Petitioners

versus

PEGASUS ASSET RECONSTRUCTION PVT. LTD. & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Ms. Reena Jain Malhotra, Advocate.

For the Respondents : None

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE R.K. GAUBA

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

CM No. 22521/2018 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM No. 22913/2018 (filed by the petitioners for early hearing)

In view of the circumstance that we propose to dispose of the petition finally, the application seeking advancement of the date of hearing of the petition is allowed.

The application stands disposed of.

W.P.(C) 5775/2018 & CM No. 22520/2018 (stay)

1. The present writ petition under Articles 226 and 227 of the Constitution of India, essentially seeks to injunct the passing of an order dated 17th February, 2018 in OA No. 104/2014 titled as “*M/s Pegasus Assets Reconstruction Pvt. Ltd. vs. M/s V.K. Paints & Sanitary & Ors.*”, passed by the Debts Recovery Tribunal-III, Delhi (for short ‘DRT’).

2. The writ petitioners are aggrieved by the direction issued by the learned Debts Recovery Appellate Tribunal, Delhi (for short ‘DRAT’) in order dated 11th May, 2018 in Miscellaneous Appeal No. 115/2018, whereby, it has been observed that the mere pendency of the appeal should not result in the DRT staying its hands from passing an order, in accordance with law, in the meantime.

3. Learned counsel appearing on behalf of the petitioners has invited our attention to an order dated 3rd October, 2017, passed by the learned DRT-II, Delhi in TSA No. 20/2015 titled as “*Mr. Dharamvir Sharma & Ors. vs. M/s Pegasus Assets Reconstruction Pvt. Ltd. & Ors.*”, (Annexure P-2), to urge that the borrower, one Mr. Brij Gopal, proprietor of M/s V.K. Chauhan Paints and Sanitary Store, Kondli, Delhi-110096/defendant No. 2 has been found to have obtained a loan from the respondent No. 1 herein, on the basis

of forged and fabricated documents and further that, the petitioners have been able to establish their rightful ownership over the subject property.

4. Predicated on this finding, it is urged that no order ought to be passed by the learned DRT-III, Delhi in the said OA No. 104/2014 (supra), in their absence.

5. Although, we are impressed by the submission made on behalf of the petitioners to the effect that, there is a finding of fact by the learned DRT-II, Delhi in TSA No. 20/2015, inasmuch as, it has been held that the security applicants have been able to establish their rightful ownership over the subject property, there is no warrant to injunct the DRT-III, Delhi from pronouncing an order in a collateral proceeding between the parties, which had been reserved on 19th May, 2018.

6. Even otherwise, the present petitioners have been permitted to file a reply to the appeal being Misc. Appeal No. 115/2018 arising out of OA No. 104/2014, pending adjudication before the learned DRAT where the issue is pending determination and is scheduled to come up for hearing on 14th June, 2018.

7. Therefore, whilst reserving liberty to the petitioners to articulate their objections to the claim of respondent No. 1 herein, in relation to the subject property before the learned DRAT, we see no warrant to interfere with the impugned order, at this stage.

8. The petition is accordingly dismissed.

**SIDDHARTH MRIDUL
(JUDGE)**

**R.K. GAUBA
(JUDGE)**

**MAY 28, 2018
RS**