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

+ **W.P.(C) 7097/2018**

VIJAY KUMAR AND ORS.

..... Petitioners

Through Mr M. Dutta, Advocate with Mr Arvind
Sharma, Advocate.

versus

CHOLAMANDALAM INVESTMENT

AND FINANCE COMPANY LTD. (CIFCL) Respondents

Through Mr Sanjeev Bhandari, Advocate with
Mr Prateek Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.07.2018

CM 26943/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

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3. The petitioners have filed the present petition, *inter alia*, praying as under:-

“issue writ of certiorari and / or any other appropriate writ order or direction thereby extending the period of taking over physical possession of the properties in question as detailed in para 5 above, by three months thereby directing the respondent not to take physical possession of the properties in question for a period of three months from the date of the order so as to enable the petitioners to make

arrangements to shift alongwith their family members comprising of females, children and senior citizen;”

4. The petitioners received a notice dated 23.06.2018 issued by the respondent informing them that it would be taking possession of the mortgaged property under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) pursuant to the directions passed by the District Magistrate.
5. The property in question – Flat No. 1 & 2, C-43, Surya Nagar, Sector-7, Ghaziabad, Uttar Pradesh – was mortgaged to the respondent and is currently occupied by the petitioners as their residence. The learned counsel appearing for the petitioners states that the petitioners do not seek to place any impediment on the respondent in enforcing its security interest and, therefore, would vacate the premises on or before 30.09.2018.
6. The learned counsel appearing for the respondent states, on instructions, that the respondent would have no objection to the petitioners occupying the property in question provided the petitioners give an undertaking to the Court to the aforesaid effect.
7. In view of the above, it is directed that the petitioners shall file an undertaking by way of an affidavit(s) to the Court that they shall hand over the peaceful possession of the property in question to the respondent on or before 30.09.2018. The said undertaking shall be filed within a period of two days from today. The respondent is at liberty to take any further steps under the SARFAESI Act on the strength of the symbolic possession, which is already available with the respondent.
8. The notice dated 23.06.2018 shall not be implemented subject to the

petitioner furnishing the undertaking as stated above.

9. The learned counsel appearing for the petitioners also states that the petitioners will withdraw the appeal filed before the Debt Recovery Tribunal. The petitioners are bound down to the said statement.

10. The petition is disposed of in the aforesaid terms.

11. Order *dasti*.

VIBHU BAKHRU, J

JULY 10, 2018

pkv