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

+ W.P.(C) 8113/2018 & CM No.31137/2018

MANJU DEVI AND ORS. Petitioners

Through: Mr.Anurag Jain, Advocate

versus

M/S RBL BANK LIMITED SS (FORMERLY KNOWN AS
RATNAKAR BANK LTD.) AND ORS. Respondents

Through: Mr.Rajeeve Mehra, Sr.Advocate with
Ms.Sushmita Banerjee, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **28.11.2018**

1. Challenging orders passed by the Debts Recovery Appellate Tribunal, Delhi on 25th July, 2018 (Annexure-A), this petition had been filed by the eight petitioners. Interim protections have been granted and it is an admitted position that as on date the petitioners are in possession of the shops in question and the original proceedings initiated by the petitioners under Section 17 of the Recovery of Debts and Bankruptcy Act, 1993, SA No.205/2016 is pending consideration on merit before the DRT-III, Delhi titled Smt.Manju Devi & Ors. Vs. RBL Bank Ltd. & Ors.

2. During the course of hearing of the matter which primarily challenges the interlocutory orders passed with regard to pre-deposit and possession of the property in question, a suggestion was made to this Court by Sh.Rajeeve Mehra, learned senior counsel representing the respondent that the respondent-bank would be satisfied if SA No.205/2016, pending before Debts Recovery Tribunal-III, Delhi is directed to be decided within a fixed period of time and till a final decision is taken by the Tribunal, the bank will not have any objection in case the petitioners retained possession of the shops in question which is claimed to be allotted to them.

3. Learned counsel for the petitioners submits that he would have no objection in expediting disposal of the matter by the Tribunal. It is reported that the case is at the stage of recording of evidence by the petitioners namely exhibiting of documents on the basis of the affidavits filed by the petitioners under Order 18 Rule 4. It is also an admitted position that during the pendency of the matter various interlocutory orders were passed and in pursuance to an order passed by this Court, the petitioners had submitted an undertaking before the Tribunal in the form of an affidavit (Annexure-5) at page 617 of the paper book and in para 4 of the said undertaking, the following assertions were made by the petitioners:-

“4. That the deponent undertakes to vacate the aforesaid shop if the deponent is ultimately found unsuccessful in establishing her claim(s) over the aforeasisd shop in accordance with law.”

4. It is an admitted position that similar undertakings have been filed by each of the eight petitioners.

5. Taking note of the totality of the circumstances and the anxiety

expressed by the parties with regard to disposal of SA No.205/2016 pending before the Debts Recovery Tribunal-III, Delhi, we allow this petition and dispose it in the following manner:-

(i) Parties shall appear before the Tribunal and expedite recording of evidence and conclude the proceedings before the Tribunal in accordance with law and the Tribunal shall dispose of the matter on merit in accordance with law within a period of 3 months from the date of appearance of the parties on 15th December, 2018 when the matter is said to be listed before the Tribunal.

(ii) Till the matter is not decided by the Tribunal, the petitioners shall be permitted to retain possession of the shops in question that apart while passing the final order, the Tribunal shall take note of the undertaking given by the petitioners and it would be for the Tribunal to pass appropriate orders on the undertaking as may be permissible in law.

(iii) It may be further clarified that the undertaking given by petitioners shall not be construed to be that their right to file the statutory appeal is closed. The right shall always be open to the petitioners that apart we may clarify that in the order passed by this Court on 6th August, 2018, it has been observed as under:-

“We clarify that the said order would mean that the respondent bank cannot take action in accordance with law and sell other portions of the properties.”

There is a typographical error in the said order. The order, in fact, is that the respondent-bank can take action in accordance with law and sell other portions of the property except the eight shops which are in possession of the petitioners subject further to the orders passed above.

6. Petition and pending application is disposed of in the above terms.

CHIEF JUSTICE

V. KAMESWAR RAO, J.

NOVEMBER 28, 2018

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