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

+ **W.P.(C) 9429/2018 & CM APPL. 36549/2018**

JANAKI

..... Petitioner

Through Mr M.S. Jadhav, Adv. with
Mr.Simanda Ayare, Adv.

versus

DELHI DEVELOPMENT AUTHORITY THROUGH VICE-
CHAIRMAN AND ORS.

..... Respondents

Through Ms Sangita Rai, Adv. for R-6.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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07.09.2018

1. The petitioner has filed the present petition impugning an order dated 31.07.2018 (hereafter 'the impugned order') passed by the CMM (West), Tis Hazari Courts, Delhi under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter "SARFAESI Act"), whereby the learned CMM (West), Tis Hazari Courts had appointed a receiver to take possession of the property described as Property/plot no. 39, Shivaji Enclave, New Delhi-110040 (hereafter 'the property').
2. The petitioner claims to be in possession of the first floor of the property.
3. It is the petitioner's case that she had entered into an agreement to sell/purchase on 05.01.2016 and had purchased the property on representation that the same was free from encumbrances. The petitioner

further claims that the possession of the residential flat was handed over to her on 08.04.2016. There is no dispute that prior to the said transaction, the property in question was mortgaged to respondent no.2 – a Non Banking Finance Company (NBFC).

4. The impugned order has been passed in exercise of the power under Section 14 of the SARFAESI Act and at the instance of respondent no.2 for enforcement of its security interest.

5. Under the circumstances, no interference with the impugned order is warranted. The petitioner, of course, has remedies against the persons who had sold the property to her and it would be open for the petitioner to initiate appropriate proceedings against the said parties.

6. At this stage, the learned counsel appearing for the petitioner states that the time afforded to the petitioner to vacate the said floor is too short, as the petitioner has been called upon to vacate the said premises on 14.09.2018. He states that other floors are vacant and there is no impediment in the receiver taking possession of other floors.

7. The learned counsel for the petitioner states that the petitioner is willing to submit an undertaking to voluntarily to vacate the said premises within a period of one month from today and hand over the possession to the receiver appointed by the learned CMM. The aforesaid contention appears to be reasonable.

8. In view of the above, it is directed that the petitioner will submit an undertaking by way of an affidavit to vacate the said premises within a period of 30 days from today. Copy of such undertaking shall also be filed with the learned CMM. On the said undertaking being filed in the Court of learned CMM, direction for the receiver for taking possession of the first

floor of the property in question would not be implemented for a further period of 30 days from today.

9. The petition is disposed of in the above terms. The pending application is also disposed of.

10. Order *dasti* under the signatures of the Court Master.

VIBHU BAKHRU, J

SEPTEMBER 07, 2018

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