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

+ **W.P.(C) 9775/2018**

SOMINI PHILIP

..... Petitioner

Through:

Mr Wills Mathews,
Mr Paul John Edison, Advocates.

versus

RESERVE BANK OF INDIA AND ORS

..... Respondents

Through:

Mr H.S. Parihar, Mr Kuldeep S.
Parihar, Advocates for RBI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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17.09.2018

C.M. No. 38069/2018

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

W.P.(C) 9775/2018 & C.M. No. 38070/2018

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

“a) Issue a writ in the nature of mandamus or any other appropriate writ/directions/orders directing the respondent no. 2 to 4 not to disturb the petitioner and her family members of the exclusive peaceful possession of Flat no. 705/G-1, MIG , Upper Ground Floor, Arawali Apartment-11, Sector-5, Vaishali, Ghaziabad.

b) Pass an order directing the respondent no. 1 to take appropriate enquiry and action against the illegalities committed by the respondent no. 2 to 4 on the petitioner and award compensation of Rs.55,000.00 to the petitioner.”

4. The petitioner is, essentially, aggrieved by the action of officials of respondent no.2, Asset Reconstruction Company (India) Limited, in attempting to take possession of the residential flat –Flat no. 705/G-1, MIG , Upper Ground Floor, Arawali Apartment-11, Sector-5, Vaishali, Ghaziabad – occupied by the petitioner. The petitioner states that the petitioner has no connection with the borrowers and further, the property occupied by the petitioner was also not mortgaged to respondent nos.3 and 4.

5. At the outset, Mr Mathews the learned appearing counsel for the petitioner states that after filing of the petition, the said notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has been withdrawn.

6. It appears that this is case of mistaken identity and the respondents have taken measures to rectify their error. In this view the first prayer – prayer (a) set out above – does not survive.

7. Mr Mathews, however, submits that the orders be passed for awarding compensation to the petitioner for being unduly harassed. This Court does not consider it apposite to entertain the question of compensation in this petition. The same would entail examination of the loss or damage suffered by the petitioner, which the petitioner would have to establish in a trial.

8. It will be open for the petitioner to file appropriate action if otherwise

maintainable in law, to seek such relief.

9. The petition is disposed of. The pending application is also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 17, 2018

pkv