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

+ **W.P.(C) 9678/2018**

SIDDHARTH CHAUDHARY Petitioner

Through: Ms Pratiti Rungta and Mr Sumit
Pargal, Advocates.

versus

STATE BANK OF INDIA Respondent

Through: Mr Mithilesh Pal, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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14.09.2018

CM No. 37667/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. Issue notice.
4. The learned counsel appearing for the respondent accepts notice.
5. The petitioner has filed the present petition, *inter alia*, praying as under:-

“(a) Issue a writ of certiorari and / or any other appropriate writ order or direction thereby extending the period of taking over physical possession of the property being J-3, Saket, New Delhi- 17 by 45 days thereby directing the respondent not to take physical possession of the property in question for a period of 45 days from the date of the order so as to enable the petitioner to make arrangements to shift alongwith his family members;”

6. The relevant facts necessary to address the present controversy are

that one M/s Radikal Foods Limited had availed certain financial assistance from the respondent bank. The repayment of the dues was guaranteed by several persons including Sh. C.P. Chaudhary, who has since expired. M/s Radikal Foods Limited defaulted in repayment of the dues to the respondent bank. The petitioner is the son of the deceased Sh C.P. Chaudhary. He is also one of the guarantors.

7. On 30.12.2017, the respondent issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter 'the SARFAESI Act'), *inter alia*, claiming a sum of ₹695,13,16,548/- as on 30.12.2017. The petitioner filed his objections to the said notice. However, the same were not accepted.

8. In the meanwhile, this Court also ordered for winding up of M/s Radikal Foods Ltd.

9. In July 2018, the respondent filed an application under Section 14 of the SARFAESI Act before the Court of Learned CMM, South East District, Saket Court seeking an appointment of a Receiver to take physical possession of the property in question (J-3, Saket, New Delhi-110017). The Receiver so appointed has issued a possession notice on 30.08.2018 stating that he would be taking physical possession of the property in question on 17.09.2018.

10. The petitioner is residing in the property in question with his wife and their two years old daughter. The learned counsel appearing for the petitioner submits that the petitioner would voluntarily handover the physical possession of the property in question to the Receiver; however, he

require some time to make alternate arrangements.

11. Given the mitigating circumstances, the request made by the petitioner is reasonable and this Court finds no reason for that to be opposed. In the aforesaid view, the present petition is allowed and the implementation of the notice dated 30.08.2018 issued by the Receiver is directed to be deferred for a period of 45 days from today. This is subject to the petitioner filing an undertaking by way of an affidavit affirming that he shall handover peaceful vacant possession of the property in question to the authorised officer of the respondent on or before 45 days from today. It is also directed that the petitioner will not induct any other person in the said property. The aforesaid undertaking be filed within a period of one week from today.

12. It is clarified that on the possession of the property in question so being handed over, the Receiver appointed by Learned CMM, South East District, Saket Court, would stand discharged.

13. Order *dasti* under signature of Court Master.

VIBHU BAKHRU, J

SEPTEMBER 14, 2018
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