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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10395/2018, CM No. 40506/2018**
M/S ANISHKA JEWELLERS

..... Petitioner

Through: Mr. Kirti Uppal, Sr. Adv. with
Mr. Ajay Khanna, Mr. Sidharth
Chopra & Mr. Aditya Awasthi, Advs.

versus

INDIAN OVERSEAS BANK

..... Respondent

Through: Mr. Gautam Singhal, Adv. with
Mr. Naveen Kumar, Adv. with
Mr. Mahendra Sehra & Mr. Nidhir
Kant, Bank Officials

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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08.10.2018

1. Challenging an E-Auction Sale Notice dated 4th September, 2018, issued by the respondent under Section 13(4) of SARFAESI Act, 2002, this petition has been filed under Article 226 of the Constitution of India by the petitioner.
2. Having heard the learned counsel for the parties at length and after considering various aspects of the matter including taking note of the fact that the proceedings initiated by the present petitioner being SA No. 16/2018 is pending before the DRT-I, Delhi, we are of the considered view that in view of the law laid down by High Court of Madras in the case of *Titanium Tantalum Products Ltd. and Ors v. State Bank of India*

MANU/TN/2787/2016 and N.S. Suresh v. The Authorised Officer Vijaya Bank ARM Branch and Ors MANU/TN/0581/2018, petitioner has a remedy of challenging the aforesaid notice before the DRT-I, Delhi under Section 17 of the SARFAESI Act. Petitioner is therefore now required to amend SA No. 16/2018, which is still pending and challenge the E-Auction Sale notice dated 4th September, 2018.

3. Considering all these aspects, we grant liberty to the petitioner to file an application before the DRT-I, Delhi seeking amendment of the proceedings or file a fresh application by tomorrow i.e 9th October, 2018 and if the same is done, DRT-I shall take up the matter on 10th October, 2018 itself and pass appropriate orders on the application for interim relief for staying the E-Auction proposed to be held on 11th October, 2018.

4. With the aforesaid, the petition is disposed of.

5. Dasti under the signatures of Court Master.

CHIEF JUSTICE

V. KAMESWAR RAO, J

OCTOBER 08, 2018/ak