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

\+ **<u>W.P.(C) 7350/2017 and CM APPL. 30341/2017</u>**

HARINDER KAUR SAHI & ANR ..... Petitioners
Through: Mr Udayan Khandelwal, Advocate.

versus

STATE BANK OF INDIA & ANR ..... Respondents
Through: Mr Rajiv Kapur and Mr Khushboo Kapur, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% 17.12.2018

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

> "(i) Issue a writ of mandamus and/or a writ in the nature of mandamus or any other appropriate writ, direction or order quashing and setting aside the order/decision of the respondents to create lien on the account and deposits of the petitioners as mentioned hereinabove;
>
> (ii) Direct the Respondent Bank to initiate appropriate inquiry/proceedings against the officials responsible for the aforesaid illegal action;
>
> (iii) Award costs of the present proceedings to the Petitioners;"

2. The respondent bank had provided a loan to petitioner no.2 and one Mr Sandeep Bhatia (who was at the material time, husband of petitioner no.2). The said loan was for extended for purchasing a house property (Flat No. 4097, Pocket 5 and 6, Sector-8, Second Floor, Duplex Flat, Vasant Kunj, New Delhi). Apparently, there is a default in repayment of the said

loan and in view of the same, the respondent bank had marked a general lien on the savings bank account maintained by the petitioners.

3. It is stated that there was a matrimonial dispute between petitioner no.2 and Mr Sandeep Bhatia, which had led to their divorce. The petitioners state that the property in question for which the home loan was extended is in possession of Mr Sandeep Bhatia.

4. Petitioner no.1 is the mother or petitioner no.2 and, admittedly, she has neither availed of any loan nor stood as a guarantor to the loan extended by respondent bank. She states that lien has also been marked on her fixed deposits maintained by her with the respondent bank only for the reason that she had also joined petitioner no.2 (who is her daughter) as a joint holder.

5. This Court in its order dated 12.10.2018 had observed that respondent bank cannot exercise any rights on the property belonging to petitioner no.1 and, the fixed deposits to the extent that they are assets of petitioner no.1 cannot be a subject matter of any lien by respondent bank.

6. Mr Kapur, learned counsel appearing for respondent bank now points out that no lien has been marked on the fixed deposits and only the joint savings bank account has been put on hold.

7. The learned counsel appearing for the petitioners states that the petitioners would be satisfied if the fixed deposits are pre-maturely liquidated and the proceeds are remitted to bank accounts of petitioner no.1.

8. Clearly, if there is no lien marked on the said Fixed deposits, the respondent bank cannot withhold the same. Accordingly, the respondent

bank is directed to remit the proceeds of the fixed deposits to the account of petitioner no.1, details of which would be provided by the learned counsel appearing for the petitioner to Mr Kapur.

9. This Court had also observed in the order dated 12.10.2018 that it would be apposite for the bank to enforce its security interest by initiating an appropriate proceedings before the Debts Recovery Tribunal, if not already done. The learned counsel appearing for the petitioners had also pointed out that a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereafter 'SARFAESI Act') had also been issued indicating that the residential property in question is mortgaged to the respondent bank. Thus, the respondent bank is also required to take further steps under Section 13(4) of the SARFAESI Act.

10. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

DECEMBER 17, 2018
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