$~61 & 63

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

\+ **W.P.(C) 11432/2018**

GEE CEE METAL PVT. LTD. ..... Petitioner

Through: Mr Rajender Wali, Mr Anand Aggarwal and Mr B. Deva Sekhar, Advocates.

versus

KOTAK MAHINDRA BANK ..... Respondent

Through: Ms Shweta Kapoor, Advocate with Mr Sudhir Yadav, AR.

AND

\+ **W.P.(C) 11441/2018**

GEE CEE CORPORATION PVT. LTD. ..... Petitioner

Through: Mr Rajender Wali, Mr Anand Aggarwal and Mr B. Deva Sekhar, Advocates.

versus

KOTAK MAHINDRA BANK ..... Respondent

Through: Ms Shweta Kapoor, Advocate with Mr Sudhir Yadav, AR.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 23.10.2018

CM No.44247/2018 in W.P.(C) 11432/2018
CM No. 44264/2018 in W.P.(C) 11441/2018

1. Allowed, subject to all just exceptions.

2. The applications are disposed of.

<u>W.P.(C) 11432/2018 & CM No. 44246/2018</u>
<u>W.P.(C) 11441/2018 & CM No. 44263/2018</u>

3. The petitioners have filed the present petitions, *inter alia,* praying that the respondent bank be directed not to take possession of the entire mortgaged property – property bearing no.D-8, Maharani Bagh, New Delhi. The petitioner states that the possession of the third floor of the mortgaged property has already been handed over to the respondent bank and its value is more than sufficient for the respondent bank to recover its dues.

4. According to the petitioner, the market value of the third floor of the mortgaged property is approximately Rs.20 crores and the entire dues owed to the respondent bank is only Rs.13.5 crores.

5. Ms Kapoor, the learned counsel appearing for the respondent bank submits that the petitioner had given undertakings to the Debt Recovery Tribunal (DRT) for payment of the overdue amounts on more than one occasion; however, the petitioner has failed to comply with its undertakings and had paid only a part amount. She further submits that no indulgence is required to be granted to the petitioner in these proceedings as the matter is pending before the DRT.

6. It is seen from the above that the dispute relates to enforcement of security interest under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and the respondent bank has already initiate proceedings under the said Act. In this view, no interference by this Court is warranted in the said proceedings. Admittedly, the petitioner owes an amount of Rs 13.50 crores to the respondent bank and the respondent bank is entitled to enforce its security interest by sale of the mortgaged property.

7. At this stage, Mr Wali learned counsel appearing for the petitioner states that the petitioner is willing to discharge its entire liability to the respondent bank, within a period of two months from today. Considering that the mortgaged property is a residential house, it would be apposite if the respondent bank considers this offer and refrains from taking any steps for sale of the said property for the said period.

8. The bank would consider the aforesaid observation and take an appropriate decision. It is, however, clarified that this Court had not issued any direction to the respondent bank but merely expressed a view that may be considered by the bank given the circumstances of the case. It would also be open for the petitioner to raise such submissions before the DRT.

9. It is also open for the petitioner to locate a buyer for the part of the property for discharge of its debt towards the respondent bank. In such event, the petitioner shall produce the prospective buyer before the DRT/the respondent bank for finalising the sale of the property or part thereof. The respondent bank or the DRT may consider the sale of the mortgaged property (or a part thereof) at the instance of the petitioner.

10. The petition is disposed of with the aforesaid observation. The pending applications are also disposed of.

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

VIBHU BAKHRU, J

OCTOBER 23, 2018
MK