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

+ W.P.(C) 7539/2017 & CM APPL. 31105/2017

JOGINDER SANSANWAL Petitioner
Through: Mr. Vivek B. Saharya, Adv.

versus

INDIABUALLS HOUSING FINANCE LTD Respondent
Through: Ms. Aakanksha Kaul, Adv.

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

% **ORDER**
13.11.2018

Challenging the order dated 05.04.2017 passed by the Debts Recovery Appellate Tribunal (DRAT) in Appeal No.145/2016 holding that the appeal is not maintainable, this petition has been filed. However now, Hon'ble Supreme Court in Civil Appeal No.10873/2018 titled *M/s Hindon Forge Pvt. Ltd. & Anr. v. The State of Uttar Pradesh Thr. District Magistrate Ghaziabad & Anr.* decided on 01.11.2018 has held that the borrower or debtor can approach the Debts Recovery Tribunal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 at the stage of taking possession notice referred to in Rules 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002 and the appeal at that stage itself is maintainable even before taking over actual physical possession of the property. That being so, we remand the

matter back to the Appellate Tribunal to consider the aforesaid judgment and thereafter proceed with the matter in accordance with law.

The writ petition stands disposed of. The pending application also stands disposed of accordingly.

CHIEF JUSTICE

V. KAMESWAR RAO, J

NOVEMBER 13, 2018

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