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

\+ W.P.(C) 12307/2018

SAROJINI KUNNUMAL ..... Petitioner
Through: Ms.Manpreet Kaur, Adv

versus

STANDARD CHARTERED BANK AND ANR ..... Respondents
Through: Mr.Sanjeev Sagar, Adv with Ms.Nazia Parveen, Adv for SCB

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **17.05.2019**

CM No. 23798/2019 (Exemption)

Exemption is allowed, subject to all just exceptions.

Application stands disposed of.

CM No. 23797/2019

The present application has been filed on behalf of the petitioner seeking extension of time for making the payment of Rs. 45,42,000/- to the respondent Bank as directed by the learned Predecessor Bench of this Court vide judgment dated 20.11.2018.

In fact, the present writ petition was disposed of on 20th November, 2018. The relevant portion of the said order reads as under:-

"4. Taking note of totality of the circumstances and without setting a precedent in the matter, taking a sympathetic view of the entire situation to the effect that the son of the petitioner has left the country and has gone to United States, has taken

citizenship there and is not responding to the request of the parents to take action for payment of the loan amount, we as a one-time measure permit the petitioner to pay the entire amount in accordance with the statement of accounts produced by the bank calculating the interest @ 11% p.a. simple interest and the aforesaid amount shall be paid in the following manner:

(i) A draft of Rs.4 lakhs has been paid today and the same is accepted by the counsel representing the bank;

(ii) A further sum of Rs.10 lakhs shall be paid on or before 15.12.2018;

(iii) The remaining amount after considering, if permissible, the adjustment of Rs.8 lakhs shall be paid on or before 05.01.2019.

5. The petitioner shall approach the competent authority of the bank and produce documents on the basis of which she is claiming the adjustment of Rs.8 lakhs. The bank shall examine the same, accept her contention or reject it and thereafter the petitioner would be required to pay the remaining amount on or before 05.01.2019. <u>It is further directed that in case the petitioner fails to comply with the directions issued as is indicated hereinabove and the dues are not cleared by 05.01.2019, this order shall be deemed to have been automatically vacated and the respondent bank shall be free to proceed in the matter and effect the recovery in accordance with the order passed by the Tribunals below.</u>

6. With the aforesaid observations, the writ petition is disposed of. The pending application also stands disposed of."

Since, the aforesaid order was not complied with, the order dated 25th May, 2017 passed by the DRT-I stood revived. The relevant portion of the said order reads as under:-

"6. Hence in peculiar facts and circumstances of the case and considering the aforesaid judgments, the applicant is hereby directed to deposit with the respondent bank the NPA amount

alongwith 11% simple interest from the date of NPA till the date of realization within a period of three months from today and in case applicant fails to deposit the entire amount within three months, the residual amount shall be deposited in the fourth month alongwith interest @ 13.50% simple. The applicant is also directed to deposit the legal and other expenses with the respondent bank. The respondent bank is hereby directed to adjust the amount so lying in no interest bearing account in the account of borrower.

7. It is made clear that in case the applicant fails to deposit the above mentioned amount, the respondent bank is at liberty to proceed further under the SARFAESI Act, 2002 in accordance with law."

The learned counsel for the petitioner states that while the petitioner guarantors are senior citizen, the principal borrower, their son, has fled to America.

Learned counsel for the respondent-Bank submits that despite giving various extensions, the petitioner has not cleared the loan since 2014.

Consequently, this Court is of the opinion that in view of the persistent default and failure to comply with the order dated 20th November, 2018, the order dated 25th May, 2017 has come into effect and the petitioner must comply with the same.

Yesterday the learned counsel for the petitioner had taken time to obtain instructions. Today, learned counsel for the petitioner has handed over two Demand Drafts to the learned counsel for the respondent-bank, details of which are as under:-

(1) Demand draft for a sum of Rs. 44,00,000/- bearing No. 778216 dated 16.05.2019 drawn on South Indian Bank, Vasant Kunj, New Delhi.
(2) Demand draft for a sum of Rs. 1,42,000/- bearing No.

778217 dated 16.05.2019 drawn on South Indian Bank, Vasant Kunj, New Delhi.

In view of the aforesaid development, the petitioner is granted time to comply with the order dated 25th May, 2017 by making payment of the balance amount within Ninety days. Till the aforesaid period of 90 days expires, the respondent-bank is directed not to take any coercive action in pursuance to the notice dated 30th April, 2019 for taking over possession of the petitioner's property.

In the event the amount due and payable in accordance with the order dated 25th May, 2017 is paid within the stipulated period of Ninety days, the notice dated 30th April, 2019 for taking over possession of the petitioner's property shall stand quashed. However, if the amount due and payable in accordance with the order dated 25th May, 2017 is not paid within the aforesaid stipulated time, the present application shall be deemed to have been dismissed.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

MAY 17, 2019

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