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

+ **W.P.(C) 13156/2018**

VINOD KUMAR GARG & ORS. Petitioners
Through: Mr Shivankar Shukla, Advocate.

Versus

STATE BANK OF INDIA & ANR. Respondents
Through: Mr Vipin Jai, Advocate for R-1.
Mr Arun Aggarwal, Advocate for R-2/Bank of Baroda.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **05.12.2018**

CM APPL. 51051/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioners stood as sureties for the funds advanced by the respondents to M/s Veekay Polycoats Ltd. In addition, the petitioners have also mortgaged immovable property – described as, Plot No. 27, Block-ND, Pitampura, Part-III, New Delhi-110034 – as security for due performance of the repayment obligations.

4. Admittedly, M/s Veekay Polycoats Ltd. has defaulted in repayment of its dues. This led the respondent banks to issue notices under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 (hereafter 'SARFAESI Act'). The respondents have, thereafter, taken steps for enforcement of their security.

5. On 22.05.2018, the learned CMM had passed an order under Section 14 of the SARFAESI Act appointing a receiver to take physical possession of the mortgaged property. The principal borrower (M/s Veekay Polycoats Limited) and petitioners have filed an appeal against the said order, which is pending before the Debt Recovery Tribunal (DRT).

6. Notwithstanding the above, it is conceded on behalf of the petitioners that the respondent banks have a right to recover the possession of the mortgaged property. They request that some time be afforded to them to make alternate arrangements and vacate the mortgaged property.

7. Concededly, the mortgaged property is a residential property and is occupied by the petitioners. In view of the submission that the petitioners and their family members are the only occupants of the property in question and that the same would be handed over to the authorised officer of the respondent banks without any further proceedings, this Court considers it apposite to accede to the prayer made by the petitioners.

8. Considering the facts and circumstances of the case, the following directions are issued:-

- (a) That the petitioners shall handover the vacant and peaceful possession of the mortgaged property to the authorised representative of respondent no.1 bank on or before 28.02.2019.

The respondents shall take no steps to evict the petitioners till that date.

- (b) Notwithstanding that the petitioners are in occupation of the property in question, the respondent banks are in possession of the same and are at liberty to take all steps for selling/auctioning the property in question.
- (c) In the event inspection of the property is required to be provided to any officer of the respondent banks or any other prospective buyer, the respondent bank shall intimate the same to the petitioners and the petitioners shall ensure that full inspection is granted to such persons as may be authorised by the respondents.

9. The aforesaid directions are subject to the condition that the principal borrower M/s Veekay Polycoats Ltd. unconditionally withdraws its application/appeal (SA 119 of 2018) filed before the DRT-II and the petitioners submitting an undertaking by way of an affidavit to the following effect, within a period of one week from today:-

- (a) That no other person other than them and their family members are in occupation of the property in question and they shall not induct any other person in the said property.
- (b) That they accept that respondent no.1 bank is now in possession of the property in question and they are occupying the same only as permissive user for the specified period.
- (c) That they shall vacate and handover peaceful possession of the

property in question to the authorised representative of respondent no.1 on or before 28.02.2019.

9. The petition is disposed of with the aforesaid terms.
10. Order *dasti* under signature of Court Master.

VIBHU BAKHRU, J

DECEMBER 05, 2018
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