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

+ W.P.(C) 13975/2018

SYNDICATE BANK

..... Petitioner

Through: Counsel for the petitioner (appearance
not given).

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr Jawahar Raja, ASC, GNCTD with
Ms Kritika Padode, Advocate for
respondent.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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21.12.2018

CM No. 54700/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 13975/2018 & CM No. 54699/2018

2. The petitioner has filed the present petition, *inter alia*, impugning an order dated 03.11.2018 passed in Complaint Case No.241/4/2017 captioned Syndicate Bank v. M/s Steelways Enterprises.

3. The petitioner bank had advanced certain sums to M/s Steelways Enterprises against security of certain immovable property. It is stated that since the said operators had defaulted in repayment, the petitioner had issued notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act), which was subsequently followed by a notice under

Section 13(4) of the SARFAESI Act.

4. The petitioner had also filed an application under Section 14 of the SARFAESI Act before the learned CMM (West). The said application was allowed and by an order dated 30.11.2017 Mr Naved Azam, advocate was appointed as a Court Receiver to take possession of the property described as “Property measuring 100 sq. yrd. bearing no.332, Block-BE, Hari Nagar, New Delhi-110064 and commercial property at BE-329, Entire Ground Floor portion built on plot No.BE-329, measuring 58 ½ sq. yds. Out of Khasra No.1907, situated in Hari Nagar Area of Tihar Village, Delhi and entire first and second floor portion of the above mentioned property.” The fee for the Court Receiver was fixed at ₹30,000/- and ₹25,000/- was to be paid within a period of 15 days from the said order. The petitioner states that the said amount was duly paid. However, the Court Receiver so appointed did not proceed further to take possession of the property in question.

5. In the aforesaid circumstances, the petitioner filed another application praying that directions be issued to the Receiver to take possession of the said property. Pursuant to the said application, learned CMM has passed an order appointing another Receiver (Shri Avdesh Kumar, Advocate) and has also fixed the fee of the Receiver at ₹1 lakh. Aggrieved by the same, the petitioner has filed the present petition.

6. The learned counsel appearing for the petitioner submits that the petitioner’s prayer was limited to seeking directions for the Receiver appointed earlier to take possession of the property in question and not for appointing another Receiver. However, it does not appear from the impugned order that any such contention was pressed before the learned

CMM. It does not appear that the petitioner had objected to appointment of another Receiver.

7. In view of the above, the present petition is disposed of by permitting the petitioner to approach CMM once again with a request as articulated in this petition. Learned CMM shall consider the petitioner's request uninfluenced by the impugned order and pass an appropriate order. In the event, the learned CMM accedes to the request made by the petitioner, the impugned order shall be recalled and a fresh order would be passed.

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

VIBHU BAKHRU, J

DECEMBER 21, 2018

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