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

\+ **W.P.(C) 12724/2019 & C.M. APPL. 52023/2019 (stay)**

VIJAY ARORA & ORS. ..... Petitioners

Through Mr. Nitin Goel and Mr. Mayank Goel, Advocates

Versus

M/S. INDIA BULLS COMMERCIAL CREDIT LIMITED & ANR. .... Respondents

Through Mr. Sunil Dalal, Mr. Kashish Narang and Mr. Jaskaran Singh, Advocates for Respondent No.1

Ms. Prema Priyadarshini with Ms. Namrata Choudhary, Advocates for Respondent No. 2

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER

% **17.12.2019**

1.The challenge in the present petition is to an order dated 18th November, 2019 passed by the DRAT dismissing I.A. No. 1081/2019, praying for a stay on auction of the suit property, and M.A. No. 389/2019 filed by the Petitioners.

2. The dismissal was occasioned by the earlier disposal of the Petitioner's I.A. No. 923/2019, whereby the Petitioners volunteered to praying for the waiver of half of the required pre-deposit amount, subject to their depositing the other half before the next date. The DRAT dismissed M.A. No.

389/2019 when the Petitioners failed to deposit the aforesaid amount, as undertaken by them.

3. Learned counsel for the Petitioner first urges that the Petitioners are not the original borrowers of the loan in question from the Respondent India Bulls Commercial Credit Limited ('IBCCL'). According to the Petitioners, they borrowed the loan from India Bulls Housing Finance Limited ('IBHFL') and not IBCCL.

4. Learned counsel appearing for the Respondent No. 1 informs the Court that not only were the loan documents executed between the Petitioner and IBCCL but even the Post Dated Cheques ('PDCs') were issued by the Petitioners in the name of IBCCL. He has also shown the Court photocopies of such cheques, six of which are stated to have been encashed. Learned counsel for Respondent No. 1 further informs the Court that the Petitioners have made a payment of Rs. 6,57,000/- till 5th September, 2019 in six instalments. They have defaulted thereafter.

5. The Court is of the view that it is too late in the day for the Petitioners to deny that they borrowed the loan from IBCCL or that they issued blank PDCs without even knowing the name of the lender. The Court therefore rejects this plea.

6. There are no exceptions in the SARFAESI Act under which these proceedings have been initiated for waiver of pre-deposit below 25% of the amount due. The Court finds no error having been committed by the DRAT

in the impugned order.

7. The petition is accordingly dismissed. The pending application is also dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 17, 2019
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