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

+ **W.P.(C) 179/2019**

GURVINDER PAL SINGH Petitioner
Through: Mr Shivam Bajaj, Advocate.

versus

STATE BANK OF INDIA Respondent
Through: Mr S. L. Gupta, Advocate for SBI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **10.01.2019**

CM No. 870/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 179/2019

2. The petitioner has filed the present petition, *inter alia*, praying that directions be given to the Court Receiver to provide advance notice for fixing the date of possession.

3. It is not disputed that M/s AGH Wires Pvt. Ltd. had availed financial facilities from the respondent bank (hereafter 'SBI'). It is also not disputed that the petitioner had stood as a surety for the repayment obligations in connection with the said financial facilities. Admittedly, the principal borrower (M/s AGH Wires Pvt. Ltd.) has failed to discharge its repayment obligations and, accordingly, on 31.12.2017, its account was classified as a 'Non Performing Asset' (NPA).

4. Thereafter, SBI initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest

Act, 2002 (SARFAESI Act) by issuing a notice under Section 13(2) of the said Act. Subsequently, SBI initiated proceedings under Section 14 of the SARFAESI Act by approaching the learned CMM, Dwarka Court for taking over possession of the mortgaged property described as property built on residential plot bearing No. 56, Block B-2, Land Area admeasuring 270 Sq. Mtrs. (322.92 Sq. yards) situated in the layout plan of the residential scheme of Janakpuri, New Delhi-110058 (hereafter the 'mortgaged property').

5. It is the petitioner's case that the Court Receiver appointed could not take possession of the mortgaged property as the first floor and the second floor of the same was leased to the tenants who had obtained a restraint order against the petitioner. It is stated that the petitioner occupies the ground floor of the mortgaged property as his residence.

6. The learned counsel appearing for the petitioner undertakes that the petitioner and his family would vacate the ground floor of the mortgaged property voluntarily and hand over possession of the same to the authorised officer of SBI within a period of one month from today. He requests that in view of this undertaking, SBI be restrained from taking any coercive measures for evicting the petitioner.

7. It is well settled that the Court would not ordinarily interfere in proceedings initiated under the SARFAESI Act and this Court finds no reason to interfere with the order passed by the learned CMM, Dwarka Court.

8. However, keeping in view the statement made on behalf of the petitioner that he would voluntarily hand over the ground floor of the property in question to the authorised officer of SBI, this Court considers it

apposite to direct the Court Receiver not to take any action in respect of the ground floor of the said property till 11.02.2019.

9. It is made abundantly clear that this order has been passed in view of the undertaking given by the learned counsel appearing on behalf of the petitioner. It is also clarified that any failure on the part of the petitioner to comply with the aforesaid statement/undertaking would also expose the petitioner to proceedings under the Contempt of Court Act, 1971.

10. It is further clarified that the Receiver is not interdicted in any manner in proceedings with regard to the first and second floor of the property, which is stated to be leased by the petitioner.

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

12. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

JANUARY 10, 2019/MK