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

+ W.P.(C) 1168/2019

M/S BOBBY IMPEX AND ORS. Petitioners

Through: Ms. Shruita Agrawal, Advocate.

versus

THE CHIEF MANAGER, BANK OF INDIA Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **04.02.2019**

CM APPL. 5259/2019

Exemption allowed, subject to all just exceptions.

W.P.(C) 1168/2019

The petitioners have preferred the present writ petition to assail the order dated 27.10.2018 passed by the Presiding Officer, Debt Recovery Tribunal-III, Delhi ('DRT').

By the impugned order, the DRT disposed of IA No.1382/2018 preferred by the petitioner to seek stay of auction sale of his property by the respondent-bank on 29.10.2018 and to seek a direction to the respondent-bank to de-seal the property bearing No.E-144, Third Floor, Kamla Nagar, Delhi ('the property').

The DRT rejected the said application by observing that there was no irregularity or illegality in conducting the auction.

It appears that the said property was indeed put to auction on 29.10.2018. In pursuance to the said auction, the respondent-bank has issued a notice dated 04.01.2019 to the petitioners that the said property has been sold and the petitioners were called upon to remove all the inventories from the

property within 15 days from the date of receipt of the letter. At this stage, the petitioners have approached this Court.

The submission of learned counsel for the petitioners is that the petitioners have been defrauded inasmuch, as, the petitioners' acquaintances Ms. Ranjana Mehta and Mr.Raman Mehta have siphoned off monies from the cash credit account in connivance with the officials of the bank.

The aforesaid are the matters of factual dispute, which cannot be gone into by the Court in these proceedings. The petitioners' application is pending before the Tribunal. Pertinently, it appears that the petitioner No.1 preferred the IA No.1382/2018 just two days before the date of the auction, which was fixed on 29.10.2018. Even before us, the petitioners have come only upon receipt of notice dated 04.01.2019 and therefore this petition is highly belated in respect of the impugned order dated 27.10.2018.

On our query, learned counsel for the petitioners states that no civil proceedings have been initiated either against the petitioners' acquaintances Ms. Ranjana Mehta and Mr.Raman Mehta, or against the bank officials to seek any declaration regarding the alleged fraud. She states that a criminal complaint under Section 200 Cr.P.C. has been filed against the said persons, in which the summons have not yet been issued to the accused.

In view of the aforesaid position, we are not inclined to interfere with the impugned order. The petition is dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

FEBRUARY 04, 2019

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