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

+ W.P.(C) 1730/2019

SH. RAJEEV AGGARWAL

..... Petitioner

Through: Mr. Rajat Aneja, Mr. Manish Kumar
and Mr. Akshit Kapur, Advocates.

versus

INDIAN OVERSEAS BANK AND ORS.

..... Respondents

Through: Mr. Gautam Singhal, Mr. Naveen
Kumar, Advocates with Mr. Sanjay
Kishor, AGM, Indian Overseas Bank.

Mr. Sanjeev Singh and Ms. Amisha
Agarwal, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **19.02.2019**

C.M. No. 7941/2019

Exemption allowed, subject to all just exceptions.

W.P.(C) 1730/2019 & C.M. No. 7940/2019 (for stay)

1. After some arguments, on instruction from the petitioner, who is present in the Court, learned counsel for the petitioner does not press the petition and accepts the impugned order. The petitioner, however, pleads that the petitioner may be permitted to continue to occupy the premises till 30.04.2019, in view of the fact that his son is undertaking the Board Examination for Class-X i.e. the Secondary School Examination, which are

scheduled to get over on 29.03.2019. In this regard, our attention has been drawn to the Admit Card of the son of the petitioner which is placed on record. Mr. Aneja submits that the petitioner shall, thereafter, take about one month to shift out of the premises in question i.e. SFS, bearing No.321, Ground Floor, Pocket GH-13 situated at Paschim Vihar, New Delhi-110087 ('the property').

2. In view of the aforesaid submission, subject to the petitioner filing in this Court an unconditional undertaking on affidavit, to the effect that the petitioner accepts the impugned order passed by the Debt Recovery Appellate Tribunal dated 14.02.2019 in Misc. Appeal No.50/2019, and that the petitioner shall, of his own voluntarily, without protest or demur, handover the physical and vacant possession of the said property to respondent No.1-Indian Overseas Bank on or before 30.04.2019, and that he shall not part with possession of the said property to any other party or encumber/damage it in any way. We permit the petitioner to occupy the said property till 30.04.2019. The undertaking shall be filed within a week, and shall stand accepted when filed. It is only on account of said assurance/undertaking given by the petitioner, who is present in Court, that we have granted protection to the petitioner till 30.04.2019. In case of failure of the petitioner to file the undertaking, this protection shall no longer survive in his favour. It is made clear to the petitioner that, in case he breaches his undertaking, apart from all other steps that respondent No.1-bank may take to obtain possession of the property, the petitioner shall also be liable to be proceeded in contempt. It goes without saying that the rights of the petitioner to agitate his claim before the DRAT or in other proceedings are preserved.

3. Counsel for respondent No.1 states that he shall instruct the Receiver not to take possession of the property today, or, till 30.04.2019, subject to the filing of the undertaking by the petitioner and its compliance thereafter.

4. So far as the claim of respondent No.2 is concerned, the *inter-partes* claims between the petitioner, respondent No.1 and respondent No.2, shall be determined in the appropriate proceedings. In the meantime, the respondent No.1-bank may continue with its proceedings, in accordance with law.

5. Petition stands disposed of accordingly.

Order *Dasti* under the signature of the Court Master.

VIPIN SANGHI, J

A. K. CHAWLA, J

FEBRUARY 19, 2019

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