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

+ W.P.(C) 5393/2019 and CM No. 23693/2019

MRS. HEMA SAINI

..... Petitioner

Through: Mr. Pratap Sahani and Mr. M. Padhi,
Advocates.

Versus

RECOVERY OFFICER-II DEBTS RECOVERY
TRIBUNAL-III AND ANR.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

16.05.2019

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CM No. 23694/2019

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 5393/2019 and CM No. 23693/2019

The petitioner has preferred the present writ petition to assail the order dated 24.04.2019 passed by the Recovery Officer-II of the Debts Recovery Tribunal-III in RC No. 82/2016 *PNB Vs. M/s Shivani Agro India* whereby the Recovery Officer has appointed the Receiver to take over possession of the property of the petitioner bearing Khasra No. 683 and New No. 8421 situated at Basti Achhut, Qadam Sharif, now known as Arya Nagar, Pahar Ganj, New Delhi. The petitioner also assails the notice issued by the Receiver dated 10.05.2019 to take over possession of the said property.

Admittedly, the petitioner's husband was initially arrayed as a defendant in the Original Application preferred by the respondent Bank. Upon demise of the petitioner's husband, the petitioner was impleaded as a party defendant.

The Original Application preferred by the respondent Bank has since been allowed and a recovery certificate has been issued. The aforesaid property of the petitioner's husband, was a mortgage property. Consequently, the Recovery Officer has directed to take over the possession of the property by the Receiver before the same could be sold in execution of the recovery certificate.

The submission of the petitioner is that the signatures of the petitioner's late husband were forged in the mortgage document and this aspect is pending determination in case wherein the charge-sheet has been filed by the CBI and the trial is in progress.

The petitioner, therefore, seeks quashing of the order dated 24.04.2019 passed by the Recovery Officer and the letter dated 10.05.2019 issued by the Court Receiver.

We do not find any merit in this petition. Firstly, the petitioner has statutory remedy against the order dated 24.04.2019 before the DRT. If he is still aggrieved, he can approach the DRAT. Secondly, the petitioner is raising disputed question of facts which cannot be determined in this proceedings. Pertinently, the final order dated 02.02.2016 whereby the Original Application No. 141/2009 was allowed, has attained finality and we are informed that the petitioner did not assail the final order before the DRAT.

In these circumstances, we do not find any merit in this petition and the same is accordingly dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 16, 2019/kd