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

+ **W.P.(C) 9626/2019**

SEEMA YADAV

..... Petitioner

Through: Ms.Kaadambari with Ms.Mansi
Sinha, Advocates.

versus

CHOLAMANDALAM INVESTMENT AND FINANCE
COMPANY LTD.

..... Respondent

Through: Mr.Sanjeev Bhandari with Mr.Prateek
Kumar, Advocates for R1.
Mr.Santhosh Krishnan, Advocate for
R3.
Counsel for R4 to R6 (appearance not
given)

CORAM:

JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER

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07.11.2019

CM APPL. 48406/2019 (delay)

1. For the reasons stated in the application, the delay in filing the reply is condoned and the application is allowed.

W.P.(C) 9626/2019 & CM APPL. 39732/2019 (Stay)

2. The Petitioner is the purchaser, in a public auction, of the property at 1141-P, Sector 21, Urban Estate, Gurugram (hereafter 'the property in question') which belongs to the borrower/Respondent No.3.

3. The Petitioner is aggrieved by an order dated 28th August 2019 passed by

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the Debt Recovery Appellate Tribunal ('DRAT') dismissing IA No.851 of 2019 filed by the Petitioner seeking impleadment in Misc Appeal No. 334 of 2019 which was filed by Respondent Nos. 2 to 7, the original borrowers. The said appeal was directed against an order dated 26th July 2019 of the Debt Recovery Tribunal-III ('DRT') declining stay of the auction proceedings in SA No. 169 of 2019 filed by the borrowers .

4. At the hearing of this petition on 4th September 2019 while directing notice to issue to the Respondents, this Court directed that further proceedings in the Appeal No. 334 of 2019 before the DRAT shall be remain stayed and further that status quo as to both title and possession shall be maintained as regards the property in question.

5. It transpires now that in the meanwhile the original borrowers have themselves filed an application before the DRT seeking the impleadment of the auction purchaser.

6. None of the parties before the Court has any objection to the present Petitioner i.e. the auction purchaser being made party to S.A. No. 169 of 2019 filed by Respondent Nos. 2 to 7 herein before the DRT.

7. Counsel appearing for Respondent No.3 states that although a sale certificate may have been issued in respect of the property in question in favour of the present Petitioner on 9th August 2019, the borrowers would still pray for redemption by offering to pay up the entire amount due to the Respondent No.1 Financial Company before the DRT. Counsel for the

Petitioner on the other hand states that the Petitioner reserves her right to oppose such prayer if made before the DRT.

8. Learned counsel for Respondent No.1 points out that the post-dated cheques issued in its favour by the borrowers making further payments have upon presentation, been returned dishonoured. It is made clear that the interim order passed by this Court in the present petition on 4th September 2019 would not prevent Respondent No.1 from proceeding to encash the cheque/DD tendered by the auction purchaser i.e. the Petitioner for the amount for which the property in question was purchased by her at the public auction.

9. In view of the above, learned counsel for the Petitioner that she gives up the other prayers in the present petition pertaining to the validity of the sale certificate in her favour subject to the Petitioner being permitted to urge those prayers before the DRT.

10. In view of the statements made before the Court, it is directed as under:

(i) The present Petitioner will stand impleaded as a party Respondent in SA No.169 of 2019 filed by the borrowers before the DRT.

(ii) The Petitioner is permitted to oppose the prayer if any made by the borrowers in SA No. 169 of 2019 before the DRT for redemption by offering to pay the amount due to Respondent No.1 in full. The DRT will then consider such prayer on its merits.

(iii) The Petitioner is permitted to urge the other prayers in the present petition pertaining to the validity of the sale certificate in her favour before the DRT.

(iv) In view of the present order, Misc Appeal No. 334 of 2019 filed by the borrowers before the DRAT has been rendered infructuous. When the appeal is next listed for hearing before the DRAT, this order will be placed before the DRAT for passing appropriate orders.

(v) The status quo order passed by this Court on 4th September 2019 will continue till further orders are passed in that regard by the DRT before whom S.A. 169 of 2019 is stated to be list on 18th January 2020.

11. The petition and application are disposed of in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 07, 2019

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