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

+ LPA 733/2019 & CM APPL. 50495-50497/2019

ASHA RANI GUPTA

..... Appellant

Through

Mr. Manjit Singh Ahluwalia, Mr.
Jaspreet Singh, Advocates.

versus

M/S CHOLAMANDALAM INVESTMENT & FINANCE
COMPANY & ANR

..... Respondent

Through None.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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25.11.2019

1. The appellant/respondent No.4 has filed the present petition, being aggrieved by an order dated 05.03.2018, passed by the learned Single Judge on a writ petition filed by the respondent No.2/petitioner (daughter-in-law of the appellant, wife of Mr. Manish Gupta, who was impleaded as respondent No.2 in the writ petition and sister-in-law of Mr. Mohit Gupta and Ms. Mamta Gupta impleaded as the respondents No.3 & 5 in the writ petition) praying *inter alia* for quashing of the possession notice dated 09.02.2018, issued by the Receiver appointed by the court of the learned CMM, Saket, New Delhi in terms of the order dated 25.01.2018 and further, for restraining the respondent in the writ petition from proceeding in furtherance to the possession notice dated 09.02.2018.

2. Vide order dated 05.03.2018, the learned Single Judge had disposed of the writ petition filed by the respondent No.2 with a direction to the DRT to examine whether both the ground floor and first floor of premises No. 7/172, Jor Bagh Market, New Delhi are mortgaged in favour of the respondent No.1 and if so, whether it could be possible to satisfy the debt claimed by the respondent No.1 by selling one of the two floors. It was also directed that in the event DRT reaches a conclusion, it will call upon the respondent No. 1 to first make an attempt to satisfy its debt by auctioning the ground floor and if the debt remains unsatisfied, then only will recourse be had to the first floor.

3. It is noteworthy that the present appeal is accompanied by an application for seeking condonation of delay of 594 days. The flimsy explanation offered for such an inordinate delay is that the appellant has been suffering from various diseases and skin ailments, knee pain and back pain for two years and that during this entire period, the file of the case had remained untraceable with the appellant and therefore the appeal could not be filed. Except for a two page prescription issued by a Homeopathic Doctor in the Green Park Market, wherein some medicines have been prescribed for treating sinus, cold, knee joint pain, and numbness of hands, there is no medical document worth the name that demonstrates that the appellant was confined to bed in all this duration and could genuinely not pursue her legal remedies. Even otherwise, the appellant's sons, both of whom were impleaded by the respondent No.1 in the writ petition and have been deleted by the appellant from the memo of parties filed in the present appeal, were available to help their mother by engaging a lawyer and seeking legal

recourse.

4. We have enquired from the learned counsel for the appellant as to the present status of the proceedings before the DRT only to be told that a status quo order has been passed by the High Court in a Civil Miscellaneous (Main) petition filed by one of the appellant's son, Mr. Manish Gupta (husband of the respondent No.1) and as on date, the ground floor of the subject premises remains in the possession of the appellant and the first floor is under the occupation of the respondent No. 1 and her family members excluding the appellant herein.

5. In view of the extremely sketchy and unsatisfactory explanation offered by the appellant in the application for seeking condonation of delay of 594 days, we decline to allow the application. Even otherwise, on perusing the impugned order, we do not see any reason to interfere on merits, more so, when appropriate directions have been issued to the DRT to examine if it is possible to satisfy the debt claimed by the respondent No.1 by selling one of the two floors and if that is not possible, then make an attempt to auction the ground floor first rather than the residential portion of the premises on the first floor.

6. The appeal is dismissed *in limine* as meritless along with the pending applications.

HIMA KOHLI, J

ASHA MENON, J

NOVEMBER 25, 2019/MK/s