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

\+ W.P.(C) 13716/2019

SUPREME TRANSPORT ORGANISATION PRIVATE LIMITED ..... Appellant

Through: Mohammad Nausheen Samar, Adv.

versus

KOTAK MAHINDRA BANK LIMITED ..... Respondent

Through: Mr. Ravi Gupta, Sr. Adv. with Mr.Mahip Datta Parashar, Ms. Sanya Lamba and Mr. Sachin Jain, Advs.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 02.03.2020

C.M. APPL. 8503/2020 (exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

C.M. APPL. 8502/2020

3. Issue notice. Learned counsel for the Petitioner accepts notice. This application has been filed by Respondent No.1 to seek recall of the order dated 25.02.2020, whereby this Court had stayed further steps for auctioning of properties in question. Undisputedly, the two flats which are sought to be put to auction by the Respondents have been mortgaged to the Respondent Bank. The particulars of these flats are; Flat No. 143 and 153, situated on 14^{th} & 15^{th} Floor, respectively, of Building of 2, known as Kalpataru Pinnacle, situated at Goregaon (West), Mumbai Link Road, Mumbai along

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with car parking spaces.

4. The submission of Mr. Gupta, learned Sr. Counsel for the Respondent/Applicant is that, admittedly, the said flats have been mortgaged to the Respondent-Bank and the outstanding liability of the Petitioner has not been completely liquidated. Even according to the Petitioner, an amount of about Rs.2 crores remains outstanding. This submission is made on the premise that the notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement Interest Act, 2002 (SARFAESI) raised the demand of Rs. 20,24,74,094.07/-, out of which, the Respondent –Bank has already recovered an amount of Rs. 18.75 crores. While making the statement, however, the learned counsel for the Petitioner does not take into account the further interest that could have accrued on the said amount between the date of issuance of the notice till date.

5. Mr. Gupta, submits that reserve price of each of the aforesaid flats is fixed at Rs.5 crores. He has also tendered in Court, a statement of account according to which the outstanding liability, after accrual of normal and penal interest is Rs.8,80,92,2049.20/- as on 07.01.2020. We direct that copy of statement of account be furnished to the learned counsel for the Petitioner, today itself.

6. Even, if, one were to await the confirmation of the amount actually due to the Respondent/Bank, as on date, there is no denying the fact that an amount of nearly Rs.2 crores is due and outstanding even as per the notice issued under Section 13(2) of the SARFAESI Act, on 03.07.2018. Certainly, some interest would have accrued thereon. Aforesaid being the position and since

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both the flats are mortgaged to the Respondent-Bank, we permit the Respondents to conduct the auction in respect of one of the flats, namely, Flat No. 143 which is scheduled for tomorrow. Depending on the amount recovered upon sale of the said flat by auction and considering the amount actually due and recoverable from the Respondent, after verification of the statement of account, decision may be taken with regard to conduct of the auction in respect of other flat namely Flat No. 153. It shall be open to the Petitioner to raise all its contentions before the D.R.T. in relation to the computation of interest and penal interest by the Respondent-Bank.

7. In view of the aforesaid orders, no further orders are called for in the writ petition, the same is accordingly disposed of.

8. The next date of hearing in this matter i.e. 31st March, 2020 stands cancelled.

VIPIN SANGHI, J

SANJEEV NARULA, J

MARCH 02, 2020
Pallavi

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