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

+ **W.P.(C) 61/2020**

CHITRA CHAUDHARY

..... Petitioner

Through: Mr. Rajeev Panday and Mr. J.
Priyadarshi, Advocates.

versus

IIFL HOME FINANCE LTD. AND ORS.

..... Respondent

Through: Mr. Pallav Saxena, Advocate with
Mr. Bindu Das, Mr. Ram Sharma,
AVP, Legal and Mr. Anup Anand,
Senior Manager, Legal.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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07.01.2020

CAV 5/2020 and CAV 6/2020

1. Since the learned counsel for the Respondents have put in appearance, the caveat is discharged.

CM APPL. 207/2020 (exemption)

2. Allowed, subject to all just exceptions.

W.P.(C) 61/2020 and CM APPL. 206/2020 (stay)

3. The present petition challenges an order dated 20th December, 2019 passed by the Debt Recovery Appellate Tribunal ('DRAT') in

Miscellaneous Appeal (MA) No. 472/2019 arising from a Securitisation Application (SA) No. 247/2019 filed by the Respondent IIFL Home Finance Limited (earlier known as India Infoline Housing Finance Ltd.) against the present Petitioner before the Debt Recovery Tribunal ('DRT'), Delhi. On 13th December, 2019 the DRT passed an order in the aforementioned SA No. 247/2019 *inter alia* directing the Respondent to defer taking possession of the mortgaged property, belonging to the present Petitioner, "only for two months".

4. Aggrieved by the above limited interim relief granted to the Petitioner herein, the Respondent No. 1 approached the DRAT with MA No.472/2019. In the said appeal, the DRAT has by its impugned interim order dated 20th December, 2019, without hearing the present Petitioner, and while still issuing notice to her, stayed the operation of the interim order of the DRT dated 13th December, 2019. The effect of the impugned order of the DRAT is that there would be no interim relief in favour of the present Petitioner during the pendency of the appeal of Respondent No.1 before the DRAT. The said appeal was listed before the DRAT on 30th December 2019, and now has been further adjourned to 19th February, 2020.

5. The Court is of the view that by passing the impugned ex-parte interim order, which stays the interim order of the DRT, the DRAT has virtually granted Respondent No.1 the final relief. Importantly, such an order could not have been passed without hearing the Petitioner.

6. Considering that the interim protection granted by the DRT itself would

come to an end on 13th February 2020, learned counsel for Respondent No.1 on instructions offers to withdraw the appeal of Respondent NO.1 before the DRAT being MA No.472/2019. He further states that it would be left to the DRT to decide what should further happen in SA No. 247/2019.

7. Taking on record the above statement, this Court directs that MA No.472/2019 before the DRAT will stand dismissed as withdrawn. This in effect means that the impugned interim order dated 20th December, 2019 passed by the DRAT stands vacated. SA No. 247/2019 will now proceed before the DRT-I on 29th January, 2020 the date already fixed before it, in accordance with law. The present order will not preclude the DRT from issuing any further directions as prayed for by the parties. Both the parties assure this Court that they will cooperate in enabling the DRT to expeditiously dispose of the SA pending before it.

8. The petition is disposed of in the above terms and the pending application is also disposed of.

9. Order *dasti*.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 07, 2020
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