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

+ W.P.(C) 2894/2020

M/S. M. SONS GEMS N JEWELLERY PRIVATE LIMITED &
ORS. Petitioner
Through Mr. Tanmay Mehta, Advocate with
Mr. Anuj Jain and Mr. S.S. Jain, Advocates.

versus
ASREC (INDIA) LTD. Respondent
Through Mr. R.P. Agrawal, Advocate, Mr.
Amit Bansal and Mr. Nitish Kumar, Advocates.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **17.03.2020**

C.M. No.10084/2020 (exemption)

Allowed, subject to all just exceptions.

W.P.(C) 2894/2020 & C.M. No.10083/2020 (stay)

1. The present petition has been filed by the petitioner praying *inter alia* for quashing the order dated 7.2.2020, passed by the learned CMM, South East District, Saket Court, New Delhi on an application filed by the respondent under Section 14 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2020 whereunder, an Advocate has been appointed to take over physical possession of the secured asset i.e., residential premises bearing House No.84, Bharat Nagar, New Friends Colony, New Delhi.

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2. Mr. Mehta, learned counsel for the petitioner states that the aforesaid pre-emptive order has been passed by the learned CMM at the behest of the respondent, who is well aware of the fact that pursuant to the order dated 16.1.2018, passed by the learned DRAT in Misc. Appeal No.172/2017 filed by the petitioner, arising from OA No.301/2014 pending before the DRT-I, the parties were directed to appear before the DRT for it to take a decision in OA No.301/2014.

3. It is submitted that while DRT is still seized of the application filed by the petitioner as also the OA filed by the respondent and the matter is listed for arguments today, the petitioner apprehends that the Local Commissioner shall take over physical possession of the subject premises, in terms of the impugned order dated 7.2.2020, passed by the learned CMM. Learned counsel clarifies that on 13.3.2020 while issuing notice on the application moved by the petitioner for restraining the Local Commissioner from proceeding to take possession of the subject premises, no interim order was granted by the DRT-I in favour of the petitioner. Hence, there is a genuine apprehension that the said application will be rendered infructuous on the Local Commissioner taking over physical possession of the subject premises.

4. Mr. Agarwal, learned counsel for the respondent accepts notice and opposes the present petition on the ground that it is premature inasmuch as the application filed by the petitioner is still pending consideration before the DRT-I and is listed today for arguments. He

further states that the petitioner has a statutory remedy of preferring an appeal before the DRAT and instead of exhausting the said remedy, they have approached this court directly, which is impermissible.

5. Issue notice.

6. In view of the fact that the pending application filed by the petitioner before the DRT-I is listed today, it is directed that neither party shall seek an adjournment and arguments shall be addressed on the said application. Till appropriate orders are passed by the DRT-I on the said application, no coercive steps shall be taken by the respondent in respect of the captioned premises. In the event the order passed by the DRT-I goes against the petitioner, the same shall be given effect to after two working days, reckoned from the date of passing of the said order to enable the petitioner to seek legal recourse before the DRAT.

7. The present petition is disposed of alongwith the pending application. We make it clear that we have not examined the merits of the case and the matter is left open for the DRT to decide in accordance with law.

Dasti under signatures of the Court Master.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

MARCH 17, 2020/NA