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

+ W.P.(C) 4027/2020

AALOK KHANNA & ORS.

..... Petitioner

Through Mr. Abhijat with Mr. Rajtilak Guha
Roy and Mr. Shaashwat Jindal, Advs.

versus

STANDARD CHARTERED BANK & ANR. Respondent

Through Mr. Sanjeev Sagar, Standing Counsel
for the Standard Chartered Bank and Ms. Nazia
Parveen, Advocate

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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08.07.2020

This hearing is conducted through Video Conferencing.

CM Nos.14442/2020 & 14443/2020

Exemption allowed, subject to all just exceptions.

W.P.(C) 4027/2020 & CM No.14441/2020

1. This Writ Petition is filed by the petitioners seeking to restrain respondents from taking physical possession of the secured assets bearing No.C-430, Defence Colony, New Delhi. Other reliefs are also sought including for setting aside of order dated 1.7.2020 passed by CMM, Saket Courts.

2. The issue revolves around proceedings initiated by respondent No.1 under section 13(2) and 13(4) of the Sarafaesi Act. The application filed by the petitioner was dismissed by DRT in 2019. The appeal filed before DRT was not heard as there was no pre-deposit made. A Writ petition filed before

a Division Bench of this court was also dismissed on 14.11.2019. Petitioner also moved an application before the DRAT seeking extension of time for making pre-deposit. In the meantime, on 25.2.2020 CMM Saket Court appointed respondent No.2 as a Court Receiver.

3. Learned counsel for the petitioner, at the outset, states that he has only one request, namely, that time may be given by this court till 31.10.2020 to enable the petitioner take steps to settle the matter with respondent No.1. He submits that the petitioner has a property in Madhya Pradesh which if he sells would fetch enough money to pay off the dues of respondent No.1. He further states that in case for some reason there is a failure to abide by this submission respondent No.2 would be free to take possession of the property in question.

4. Learned counsel for respondent No.1 has opposed the plea pointing out that the matter has been lingering on in this manner since quite some time and despite several opportunities the petitioner has defaulted.

5. Respondent No.2 who has appeared in person objects to being impleaded as a party. In fact she submits that she was appointed by the court and is neither a necessary nor a proper party.

6. As far as the impleadment of respondent No.2 is concerned, learned counsel for the petitioner offers profuse apology for having wrongly impleaded respondent No.2 as a party. The apology is accepted. Respondent No.2 is deleted from the 'Array of Parties'.

7. Regarding the objection of respondent No.1 learned counsel for the petitioner states that these are difficult times on account of the current Pandemic and hence there has been a delay in trying to sort out the matter with the petitioner. He reiterates that if for some reason the petitioners are

unable to settle the matter/pay respondent No.1 bank by 31.10.2020 they will hand over possession of the property to appropriate authority.

8. Keeping in view the present Pandemic and the consequential effect on the economy there is merit in the contention of learned counsel for the petitioner in the sense that raising funds to settle the matter would take some time.

9. Keeping into account the facts and circumstances of the case, let the respondent No.1/learned Receiver not take possession of the property till 31.10.2020, subject to the following:-

Petitioner will file an undertaking in the form of an affidavit in the Court within 10 days undertaking that in case the matter is not settled with respondent No.1 bank or payment made by 31.10.2020 the petitioner will hand over vacant physical possession of the ground floor of the property to the learned Receiver appointed by the CMM. Copy of the affidavit will be served on respondent No.1.

10. Nothing further survives in the petition. Petition is accordingly disposed of. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

JULY 08, 2020/n