

\$~5

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

+ W.P.(C) 5670/2020, CM APPL. 20519/2020 (for add. documents) & CM APPL. 20520/2020 (for stay)

M/S MITHI INTERIORS PVT. LTDPetitioner

Through: Mr. Rajat Aneja, Advocate

versus

M/S TATA CAPITAL FINANCIAL SERVICE LTDRespondent

Through: None

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

%

26.08.2020

HEARD THROUGH VIDEO CONFERENCING.

CM APPL. 20521/2020 (for exemption)

Allowed, subject to all just exceptions.

W.P.(C) 5670/2020 and CM APPL. 20519/2020 (for add. documents) & CM APPL. 20520/2020 (for stay)

1. The petitioner/company is aggrieved by the order dated 15.07.2020, passed by the learned DRT-1, Delhi, on Securitisation Application No.210/2019, filed by it praying *inter alia* that the respondent be restrained from taking any coercive action against it as also the mortgaged property and further, from restraining the respondent from proceeding with the sale process of the mortgaged property during the pendency of the S.A. By the impugned order, the learned DRT has dismissed the captioned application moved by the petitioner on the ground that it has failed to make out a *prima facie* case in its favour for setting aside the sale of the mortgaged property conducted by the respondent on the basis of the private

treaty, having failed to receive any response to the three auction notices issued prior thereto.

2. At the outset, we have pointed out to learned counsel of the petitioner that the petitioner has a remedy of filing appeal in law and therefore, we are not inclined to entertain the present petition in exercise of the powers of judicial review vested in court under Article 226 of the Constitution of India.

3. Mr. Aneja, learned counsel for the petitioner states that the appellate remedy would be onerous on the petitioner, who shall have to deposit 75% of the outstanding dues of the respondent.

4. Simply because the condition of pre-deposit imposed in the Statute would be onerous to the petitioner cannot be a ground for it to bypass the legal remedy available in law and approach the writ court directly. We decline to entertain the present petition, which is dismissed alongwith the pending applications with liberty granted to the petitioner to approach the learned DRAT, if aggrieved by the impugned order passed by the DRT.

HIMA KOHLI, J.

SUBRAMONIUM PRASAD, J.

AUGUST 26, 2020

kk/rkb