

Writ Petition (Civil) No. 5391 / 2020

CERTIFICATE

1. The case is fit for consignment and that no proceedings are pending either in the High Court of Delhi or in the Supreme Court of India, in terms of rules as provided in Ch-5(C) of the High Court Rules & Orders Vol.-V", as no communication has been received in this respect.
2. It is also certified that all the relevant papers including office noting pertaining to payments and return of FRD/Bank Guarantee or other documents have been removed from Part 'B' and have been placed at the end of Part 'A' at pages 258 to 260.
3. During Covid Period, En-bloc dates W.E.F 17.03.2020 to 14.02.2022 were given by the Hon'ble Court and for such period no court orders were passed by the Hon'ble Court.

Prepared by: Jeenu
20/02/2024

Rostos/24
Dealing Assistant
I.D No. 67280760

Asst. Registrar/ Dy. Registrar

A.O.J(Writs)

12/3/24

CWPC - 5391/2020

CW 19422

19423/2020

19424

013-1-6

FD-2

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5391/2020**

UMA SINGHAL & ANR

.....Petitioners

Through: Dr. Sarbjit Sharma & Ms. Yamini
Nijhawan, Advocates.

versus

INDIABULLS HOUSING FINANCE LTD & ANR

....Respondents

Through: Mr. Sunil Dalal with Ms. Kashish
Narang, Advocate for R-1.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **18.08.2020**

HEARD THROUGH VIDEO CONFERENCING.

CM APPL. 19423/2020 (for exemption)

Allowed, subject to all just exceptions.

W.P.(C) 5391/2020, CM APPL. 19422/2020 (for interim directions) and
CM APPL. 19424/2020 (for any other relief)

1. Issue notice. Mr. Sunil Dalal, learned counsel for the respondent No.1 accepts notice.
2. Issue notice to the respondent No.2. The petitioners shall file the process fee and separately serve the respondent No.2 with a copy of the petition, by speed post, courier as also through *whatsAapp*, returnable on 08.09.2020. The next date of hearing shall also be intimated to the respondent No.2.

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3. The letter addressed by the petitioner to the respondent No.2 shall indicate that he shall remain virtually present on the next date of hearing. The petitioner shall also link up in the hearing. Respondent No.1 shall be at liberty to file the relevant documents which, as per Mr. Sunil Dalal, learned counsel for the respondent No.1, the petitioners have not filed.

4. Till the next date, the respondent No.1 shall not take any coercive steps in respect of the first and the second floors of the subject premises, which the petitioners claim they are in occupation of, in terms of a settlement arrived at between them and the respondent No.2 (husband of the petitioner No.1, father of THE petitioner No.2) before the learned Family Court.



HIMA KOHLI, J.



SUBRAMONIUM PRASAD, J.

AUGUST 18, 2020/kk

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

+ W.P. (C) 6097/2020 & CM 21926/2020 and CM 21927/2020

BISHAN SINGH SINGHAL

..... Petitioner

Through: Mr.Rajinder Wali, Adv.

versus

INDIA BULLS HOUSING FINANCE LTD. & ORS. Respondents

Through: Mr.Sunil Dalal, Adv. with
Mr.Mr.Kashish Narang, Adv. for R-1
Dr.Sarabjit Sharma, Adv. And
Ms.Yamini Nijhawan, Adv.
for R-2 & 3

AND

+ W.P. (C) 5391/2020 & CM 19422/2020 (interim directions),
CM 19424/2020 (grant of leave) CM 21920 (for directions)

UMA SINGHAL & ANR.

..... Petitioners

Through: Dr.Sarabjit Sharma, Adv.

versus

INDIA BULLS HOUSING FINANCE LTD. & ANR.Respondents

Through: Mr.Sunil Dalal, Adv. with
Mr.Mr.Kashish Narang, Adv. for R-1
Mr.Rajinder Wali, Adv. for R-2

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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08.09.2020

HEARD THROUGH VIDEO CONFERENCING

1. WP (C) 6097/2020 has been filed by Mr. B.S. Singhal (husband of the petitioner No.1/Uma Singhal and father of the petitioner No.2/Anand

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Singhal in W.P (C)No. 5391/2020), challenging *inter alia*, the order dated 04.09.2020 passed by learned DRAT whereunder, an application for waiver of the pre-deposit amount even of 25%, has been dismissed and as a consequence thereof, the appeal has been dismissed. A similar prayer has been made by the petitioners in WP(C) 5391/2020.

2. Mr. Sunil Dalal, learned counsel for the respondent No.1 states that after the last date of hearing fixed in the connected writ petition (W.P (C) No.5391/2020), filed by the wife and son of the petitioner in W.P (C) No. 6097/2020, physical possession of the ground, basement and terrace floors of the subject residential premises mortgaged with the respondent No.1, was taken over on 01.09.2020. This leaves the first floor and the second floor in respect whereof, W.P (C) No.5391/2020 has been filed by Dr. Sarabjit Sharma on behalf of the mother and son.

3. On 18.08.2020, notice was issued in WP (C) 5391/2020 so as to ensure the presence of Mr. B.S. Singhal, who is represented today by Mr. Wali, who states that his client is no longer residing in the subject premises after possession of the ground, basement and terrace floors were taken over by the respondent No.1.

4. The said submissions is however refuted by Mr. Dalal, who draws the attention of this court to the affidavit filed by Mr. B. S. Singhal in support of the averments made by him in W.P (C) No. 6097/2020, which shows his residential address as that of the subject premises. It is submitted by Mr. Dalal that Mr. B.S. Singhal, his wife and son are hand in glove with each other and have been trying to take the DRT/DRAT and this court for a ride inasmuch as originally, the loan amount of Rs.1.50 crores was taken jointly by Mr. B.S Singhal and his wife, Smt. Uma Singhal from Cholamandalam

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Finance Ltd. in the year 2010, on mortgaging the subject premises. Half of the amount taken on loan was credited into the account of Smt. Uma Singhal whereas, the other half was credited into the account of Mr. B.S Singhal. Thereafter, the said loan account was transferred by Cholamandalam Finance Ltd. to Diwan Housing Finance Ltd. in the year 2011 and by Diwan Housing Finance Ltd. to the Bajaj Finance Ltd. in the year 2012. It was only in the year 2013 that the respondent No.1 herein came into the picture having taken over the loan account from Bajaj Finance Ltd.

5. Learned counsel for the respondent No.1 submits that in view of the aforesaid factual position, even the so called family dispute between the husband, wife and son is nothing but a ruse to mislead the court and no explanation has been offered by the petitioners in both the petitions as to why 50% of the loan amount had been credited into the account of Smt. Uma Singhal, if she had not taken a loan. He submits that the husband and wife are co-owners of the subject premises and have been consistently defaulting in clearing the loan amount from day one. The subject premises has already been auctioned for a sum of Rs.6.25 crores and 10% of the auction price has been received by the respondent. Steps are being taken by the respondent No.1 for confirmation of the sole auction. The present situation has been brought to such a pass, only on account of their regular and persistent defaults.

6. Having regard to the aforesaid facts and circumstances of the case, this court is not inclined to entertain the present petitions. Allegations of forging of signatures of the petitioner No.1 in WP(C) No.5391/2020, on the loan documents by husband, Mr. B.S. Singhal are disputed facts that cannot be examined in writ proceedings. It is for the petitioners to seek appropriate

legal recourse, as may be advised. We decline to issue any directions to the DRAT to entertain the appeals filed by the petitioners by waiving the condition of pre-deposit of 25% of the amount due. The present petitions are dismissed, along with the pending applications.

7. At this stage, Dr. Sharma, learned counsel for the petitioner in WP(C) 5391/2020 states that if the court is not inclined to entertain the petition filed by Ms. Uma Singhal and her son, for waiver of the pre-deposit of 25% of the amount, as directed by the DRAT, then they be given a reasonable time to seek appropriate legal recourse and in that duration, the respondent No.1 be directed not to take coercive steps against his clients by trying to evict them from the first and the second floors of the subject premises, under their occupation.

8. In view of the submission made hereinabove, the respondent No.1 is directed not to take any coercive steps against the petitioners in W.P.(C) No. 5391/2020, by evicting from the first and second floors of the subject premises for a period of 10 days from today, to enable them to seek appropriate legal recourse.



HIMA KOHLI, J



SUBRAMONIUM PRASAD, J

SEPTEMBER 08, 2020
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IN THE HIGH COURT OF DELHI AT NEW DELHI

Final Draft

No. _____/DHC/WRITS/D-1/2021
Dated _____ DISPOSED OF

From

The Registrar General
Delhi High Court
New Delhi

To

The Chairman,
Debts Recovery Appellate Tribunal,
Apartment No. 318, 3rd Floor,
Hotel Samrat, Kautilya Marg,
Chanakypuri, New Delhi-110021

(Ref:- Misc. Appeal 75/20)

**WRIT PETITION (C) NO. 6097/2020 & CM No. 21926/2020 ,
21927/2020**

Bishan Singh Singhal

....Petitioner/s

Vs.

India bulls Housing Finance Ltd. & Ors.

....Respondent/s

**WRIT PETITION (C) NO. 5391/2020 & CM No. 19422/2020 ,
19424/2020 & 21920/2020**

Smt. Uma Singhal & Anr.

....Petitioner/s

Vs.

India bulls Housing Finance Ltd. & Anr.

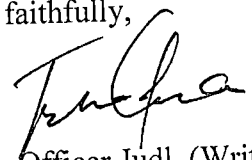
....Respondent/s

Sir/Madam,

I am directed to forward herewith for information and immediate compliance/necessary action a copy of order dated 08.09.2020 passed by Hon'ble Division Bench of this Court in the above noted case along with a copy of memo of parties.

Please acknowledge receipt.

Yours faithfully,


Admn. Officer Judl. (Writs)
for Registrar General

Dt: 11.02.2021