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

% *Date of Decision:10.08.2023*

\+ **W.P.(C) 10547/2023**

VEERESH KUMAR AND ANR. ..... Petitioners
Through: Mr. Ranjit Sharma & Mr. P Chandra, Advs.

versus

IIFL HOME FINANCE LTD .....Respondent

Through: Mr. Rajiv Kapur, Ms. Khusboo Kapur & Mr. Akshit Kapur, Advs.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The petitioners have filed the present petition, *inter alia,* impugning an order dated 17.07.2023 passed by the learned Debts Recovery Tribunal-II (hereafter '**DRT-II**') in an application filed by the petitioners under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter '**the SARFAESI Act**') [SA No.241/2023 captioned ***Veeresh Kumar v. IIFL Home Finance Limited***] whereby the petitioner's application (I.A. No.1076/2023) was rejected.

2. The petitioners had filed the aforesaid application seeking

modification of an earlier order dated 14.07.2023 passed by the learned DRT-II whereby the petitioners had agreed to deposit a sum of ₹2.62 lacs before the date of possession and the respondent had agreed to not take over physical possession of the mortgaged property on the amount being deposited.

3. The petitioners had filed an application (I.A. No.1076/2023) for modification of the order, *inter alia,* contending that it had cleared all dues towards the loan advanced by the respondent and there were no outstanding amounts payable at the material time. The learned DRT-II had, *prima facie*, found no substance in the said contention.

4. The learned counsel for the petitioners has referred to the statement of accounts furnished by the respondent on 14.07.2023 and drew the attention of this Court to the column which reflects the 'instalment overdue'. He submitted that the instalments overdue have been reflected as 'INR 0.00' and on the strength of the said statement of accounts, he submitted that the petitioners were not required to pay any further amount as all instalments were up to date.

5. The aforesaid contention is, *ex facie,* unmerited. The statement of accounts indicates that the petitioner owed a sum of ₹17,87,694 /- as on 10.07.2023. The fact that the overdue instalments have been reflected as *INR 0.00,* is for the reason that the entire loan has been recalled. At this stage, no instalments are overdue but the entire loan amount is required to be repaid by the petitioners.

6. The learned counsel for the petitioners submits that the petitioners were regular in payment of EMIs till the outbreak of Covid-19. He submitted that the petitioners had suffered immensely during the

pandemic and had also lost his father during the said period. Notwithstanding the same, the petitioners had paid equated monthly instalments *albeit* belatedly. Undoubtedly, there are mitigating circumstances which ought to be considered by the respondent, however, we are unable to find any fault with the decision of the learned DRT-II in declining to modify the order dated 14.07.2023 as prayed for by the petitioners.

7. In the aforesaid circumstances, we consider it apposite to direct that in the event the petitioners deposit a sum of ₹2.62 lacs within a period of two weeks from today, the respondent shall refrain from taking any precipitate action. The petitioner is also not precluded to approach the respondent for rescheduling the loan/amount due.

8. We hope that the respondent shall take into account the mitigating circumstances as noted above, and consider the petitioners' request for rescheduling the outstanding

9. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

AUGUST 10, 2023
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