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

% *Date of Decision: 04.10.2023*

+ **W.P.(C) 12046/2023 & CM APPL. 47217/2023**

RITU GOEL

..... Petitioner

Through: Mr. Ravish Kumar Goel, Mr. Pawan Kaushik Mr. Mohd. Sufiyan, Mr. Nitin Kumar Sharma, Mr. Akhileshwar Jha & Mr. Ritesh, Advs.

versus

INDIA CREDIT COMPANY LTD.
& ORS.

..... Respondents

Through: Mr. Kunal Chadha, Adv. for R3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.(ORAL)

1. The petitioner has filed the present petition impugning an order dated 05.09.2023 passed by the learned Debts Recovery Appellate Tribunal (hereafter '**the DRAT**') whereby the petitioner's appeal against an order dated 28.12.2022 in S.A. No. 605/2022 captioned *Ritu Goel v. India Credit Company Ltd.*, was rejected.

2. The petitioner had filed the aforesaid application (S.A No.605/2022) before the learned Debts Recovery Tribunal-1, Delhi



(hereafter '**the DRT -I**') under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter '**the SARFAESI Act**') *inter alia*, challenging the steps taken by respondent no.1 (Fullerton India Credit Company Ltd) for enforcement of its security interest in respect of the property described as "built up first floor portion, without roof rights, situated at 468 and 469, out of khasra no.642, situated at Village Chandrawali, Mohalla Gurhai, Circular Road, Shahdara, Delhi-110032" (hereafter '**the subject property**').

3. It was the petitioner's case that she had acquired the subject property from Smt. Honey Chhibber (respondent no.3) by a registered sale deed dated 15.03.2021. The petitioner had also availed a loan from LIC Housing Finance Limited (respondent no.4) for acquiring the subject property against the equitable mortgage of the subject property.

4. It is the petitioner's case that Dipak Chaudhary (respondent no.5) had fraudulently forged a sale deed on the basis of which, he had availed a loan from respondent no.1. Respondent no.3 supports the present petition and states that she had sold the subject property only to the petitioner and not to any other person.

5. Although the petitioner's application under Section 17 of the SARFAESI Act is pending before the learned DRT-I, the petitioner's prayer for interim relief was rejected by learned DRT-I by an order dated 28.12.2022.

6. It is apparent that the contentions advanced by the petitioner are



not insubstantial. Both the petitioner as well as respondent no.1 are claiming interest in respect of the subject property pursuant to the registered sale deeds, which are executed (or alleged to be executed) by respondent no.3. As stated above, respondent no.3 has refuted the respondent no.1's claim that she had executed any registered sale deed in favour of respondent no.5. The petitioner claims that the sale deed relied upon by respondent no.1 is forgery for several reasons including, (i) that the photograph of the seller on the sale deed is not that of Smt. Honey Chhibber; (ii) no sale consideration was received by Smt. Honey Chhibber from the respondent no.5; (iii) original title deed of the entire property is in possession of Smt. Honey Chhibber and does not bear any endorsement of respondent no.1 but of LIC Housing Finance Ltd.; and (iv) that the date of birth, pan number and address of Smt. Honey Chhibber in the documents deposited with respondent no.1 are also incorrect.

7. After some arguments, the learned counsel appearing for respondent no.1 fairly states that it would be apposite to direct the learned DRT-I to finally dispose of the petitioner's application under Section 17 of the SARFAESI Act. The said suggestion commends to us as it is apparent that any steps that respondent no.1 may take for auctioning the subject property would result into multiplicity of litigation. Further, it is also unlikely that respondent no.1 can recover the proper value of the subject property given the nature of disputes.

8. In view of the above, we request the learned DRT-I to consider the petitioner's application under Section 17 (S.A No. 605/2022) and



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finally dispose of the same as expeditiously as possible and preferably within a period of three months from date.

9. In the meanwhile, the respondents are restrained from taking any precipitate steps under SARFAESI Act in respect of the subject property.

10. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

OCTOBER 4, 2023
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