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

% *Date of Decision: 09.10.2023*

+ **W.P.(C) 13269/2023 & CM APPL. 52397/2023 & CM APPL. 52398/2023**

VIJAY KUMAR & ANR. Petitioners

Through: Mr. Rajesh Kumar, Adv.

Versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Sumeet Batra, Adv. for R2.

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*, praying as under: -

“(i) The Hon'ble Court may graciously be pleased to issue a writ of mandamus or a writ of certiorari or any other writ or directions or orders in favour of the Petitioners and against the Respondents, directing the respondents to decide the TSA No. 724/2022 titled as Vijay Kumar & Anr. Vs. Karnataka Band Ltd. & Ors. within two weeks or within the time as this Hon'ble Court may deem fit and proper in the facts and facts and circumstances of the present case.”

2. The learned counsel appearing for the petitioners claim that they



are the owners of the property described as under:

“RZ-87, on Plot No.2, land measuring 200 Sq. Yds. out of Khasra No. 688, situated in the vill. Bindapur, abadi known as Sita puri, Part-II, New Delhi and bounded as under.-

East: Road 20 ft.
West: Gali 12 ft.
North: Other Plot.
South: Other Plot.”

3. The petitioners claim that they had purchased the aforementioned property (hereafter “**the subject property**”) in terms of an agreement to sell dated 16.06.1995 and other documents such as a Will, receipt, affidavit, power of attorney etc. They also claim that they are in possession of the subject property since 1995. The petitioners are essentially aggrieved by the respondent no.2 bank (Karnataka Bank) seeking to enforce security interest in respect of the subject property.

4. The petitioners state that they have not mortgaged the subject property and are the owners in possession of the subject property since 1995. The learned counsel for the petitioners submits that the respondent no.2 bank claims its rights in respect of the property described as “RZ-A87, measuring 200 sq. yards out of Khasra No.26/19, situated in the Revenue Estate of village Dabri in the colony known as Dabri Extension, near Sitapur, New Delhi 110045”. It is contended that the said property is not the subject property owned by the petitioners and the respondent no.2 bank has no right, title or interest in the same. It is the respondent no.2 bank’s case that the property in



question belongs to one Mohd. Sallauddin. The learned counsel for the respondent no. 2 bank contends that the possession of the subject property was taken over and the same was auctioned. The possession of the subject property has also been handed over to the auction purchaser. It is stated that the property as claimed by the petitioners is not the same property, which was mortgaged to the respondent no. 2 bank. Respondent no. 2 bank has taken steps under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter '**the SARFAESI Act**') in respect of the property in Khasra no.26/19, situated in the revenue estate of village Dabri, Delhi, which was mortgaged by its owner, Mohd. Sallauddin.

5. The petitioners had filed the Securitization Application being S.A. No. 724/2022 before the Debts Recovery Tribunal (hereafter '**DRT**') - III, Delhi being aggrieved by the then proposed action of the respondent no.2 bank to take possession of the subject property. This Court is now informed that the said Securitization Application has been transferred to the DRT-II and numbered as TSA No.724/2022.

6. The petitioners had also filed an interim application before the Learned DRT-II but the same has since been dismissed. Aggrieved by the same, the petitioners filed an appeal before the learned Debts Recovery Appellate Tribunal (hereafter '**DRAT**') (Miscellaneous Application No.70/2023) arising out of TSA No.724/2022 captioned **Vijay Kumar & Anr. v. Union of India & Ors.** The said appeal was heard on 01.03.2023 and was disposed of by remanding the matter to the DRT-II with the request to take up the Securitization Application



(TSA No.724/2022) on the next date of hearing that is, 15.03.2023. The petitioners are aggrieved as their Securitization Application has not been heard as yet and in the meanwhile, the respondent no.2 bank has taken over possession of the subject property under the provision of the SARFAESI Act.

7. The learned counsel for the petitioners also contends that the subject property is in the process of being demolished. The petitioners have also filed a complaint before the learned Chief Metropolitan Magistrate (CMM).

8. Undisputedly, if the petitioners are the owners of the property, they would be unfairly prejudiced if their Securitization Application is not taken up on an urgent basis.

9. This Court is informed that the learned DRT-II had taken up the application on 24.08.2023 but has further deferred the hearing to 23.10.2023.

10. In the aforesaid circumstances, we request the learned DRT-II to conclude the hearing in TSA No.724/2022 and decide the same as expeditiously as possible and preferably within a period of twelve weeks from date. In any event the learned DRT-II shall decide the petitioners' interim application within a period of four weeks from date.

11. The petitioners are also at liberty to mention the matter before the learned DRT-II for an early hearing of their application for interim relief.



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12. The petition is disposed of in the aforesaid terms. All pending applications are also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

OCTOBER 9, 2023
Ch