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

+ **W.P.(C) 690/2024 & CM APPL. 3067-3068/2024**

SOMPS HEALTHCARE LLP

..... Petitioner

Through: Mr. Prateek Solanki, Mr. Navneet
Thakran, Mr. Shaini Bhardwaj & Mr.
Aditya Sharma, Advs.
M: 9818372768

versus

UNION BANK OF INDIA & ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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18.01.2024

CM APPL. 3068/2024

1. Exemption allowed, subject to just exceptions.
2. Application is disposed of.

W.P.(C) 690/2024 & CM APPL.3067/2024

3. The present writ petition has been filed inter-alia seeking directions to the respondent no. 1/bank to allow the representations of the petitioner dated 27th December, 2023 and 10th January, 2024, and to handover the machinery/equipments installed at Maha Durga Multi-Specialty Hospital, North Extension, Model Town-III, Delhi-110009, which solely belong to the petitioner.
4. It is the case of the petitioner that respondent no. 2 approached the



petitioner firm in the year 2019 for the purpose of operating the Nephrology and Dialysis Department at the Hospital. The petitioner agreed to the same, pursuant to which, petitioner and respondent no. 2 entered into collaboration to provide medical services in the aforesaid department.

5. Thus, in order to render the services, the petitioner purchased several machines/equipments for installation at the said hospital in the specified area which was allocated to the petitioner by the said hospital and respondent no. 2. After rendering services for some time, the petitioner stopped rendering its services due to the defaults and non-payments on the part of respondent no. 2. It is submitted that since then, the machines/equipments which solely belong to the petitioner, are installed/placed in the said hospital.

6. Later on, the petitioner came to know that the respondent no. 2 had availed loan facility from the respondent no. 1/bank and the aforesaid hospital had been mortgaged in the said loan account with the respondent no. 1/bank. Subsequently, the respondent no. 1/bank has taken action against respondent no. 2 under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI Act”).

7. It is contention on behalf of the petitioner that the hospital in question, from where the petitioner was providing services has already been auctioned on 11th January, 2024. He submits that the machinery/equipments of the petitioner are still lying in the hospital.

8. He submits that the said machinery/equipments were never hypothecated to the bank, as the said machinery/equipments belong and are owned by the petitioner.

9. He submits that the loan was taken by respondent no. 2 from respondent no.1-Bank. Therefore, he submits that the machinery/equipments



under the ownership of the petitioner could not have been the subject matter of any auction and that directions ought to be passed for return of the said machinery/equipments to the petitioner.

10. Having heard learned counsel for the petitioner and having perused the record, this court notes that an application being *I.A. No. 3009/2023* has already been filed by the petitioner before the Debt Recovery Tribunal (“DRT”) with respect to the release of the machinery/equipments to the petitioner.

11. Since the auction of the hospital in question took place under the SARFAESI proceedings initiated by respondent no. 1-Bank, and an application has already been filed by the petitioner before the DRT, it is deemed expedient that the prayers which are sought by the petitioner for release of machinery/equipments to it, ought to be made before the DRT.

12. At this stage, learned counsel appearing for the petitioner submits that though the application of the petitioner was listed for hearing on 10th January, 2024 and submissions in this regard were also made before the DRT, however, no orders were passed on the application of the petitioner.

13. In that view of the matter, liberty is granted to the petitioner to move an application for early hearing before the DRT for taking up the application of the petitioner viz. *I.A. No. 3009/2023*.

14. Needless to say, as and when such application is filed by the petitioner for early hearing of his aforesaid application, the same shall be considered by the DRT, which shall pass appropriate orders in accordance with law.

15. The petitioner has expressed urgency for hearing of the matter in view of the fact that in case the machinery/equipments belonging to the petitioner



are handed over to the auction-purchaser, the application of the petitioner will become infructuous. Thus, it is directed that the application of the petitioner being *I.A. No. 3009/2023* shall be taken up by the DRT upon an application being moved by the petitioner in that regard, within a period of two days from today.

16. With the aforesaid directions, the present writ petition is disposed of along with the pending applications.

MINI PUSHKARNA, J

JANUARY 18, 2024/kr