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

+ **W.P.(C) 952/2024**

STANDARD CHARTERED BANK & ANR. Petitioners

Through: Mr Sanjeev Sagar, Standing Counsel
for SCB and Ms Nazia Parveen,
Advocate.

versus

M/S. SCK INFRATECH PVT. LTD & ANR. Respondents

Through: Mr Sanjeev Bhandari, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **10.04.2024**

CM APPL. 21699/2024 (Early Hearing)

1. The petitioners have filed the present application seeking early hearing of the above-captioned appeal, which is now listed on 30.05.2024.
2. The application is allowed.

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3. Petitioner No.1 (hereafter *the Bank*) had extended certain facilities to the respondent company and claims that the same were secured by a mortgaged property bearing no.8/72, Third Floor with Roof Rights, West Punjabi Bagh, New Delhi-110026 (hereafter *the mortgaged property*). It also claimed that the original documents of the said property were deposited with the Bank. According to the petitioners, the account of the respondent (borrower) was declared as a Non-Performing Asset (NPA) on 30.10.2021.
4. The Bank sought recourse for enforcing its security interest under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter *the SARFAESI Act*) and issued a notice



under Section 13(2) of the SARFAESI Act demanding a sum of ₹2,79,16,643.40/-. According to the petitioners, the said amount was outstanding and payable as on 03.11.2021. The Bank also claims that it took symbolic possession of the mortgaged property on 25.03.2022. The possession notice was published on 02.04.2022.

5. The respondent filed the Securitization Application (being SA No. 450/2022) before the Debts Recovery Tribunal-I (hereafter *DRT*) under Section 17 of the SARFAESI Act. The learned DRT passed an order dated 12.09.2022 in the said proceedings directing that *status quo* be maintained in respect of the mortgaged property.

6. The Bank preferred an appeal (Misc. Appeal No.233/2023), before the learned Debts Recovery Appellate Tribunal (hereafter *DRAT*) being aggrieved by the *status quo* order passed by the learned DRT. The said appeal was moved on 10.10.2022. Notice in the said appeal was issued on 17.10.2022. The petitioners are, essentially, aggrieved as the said appeal has remained pending.

7. In the aforesaid circumstances, the petitioners filed a petition [being CM(M) 1590/2023 captioned *Standard Chartered Bank v. M/s. SCK Infratech Pvt. Ltd.*] before this Court. The said petition was disposed of by the learned Single Judge of this Court by an order dated 20.10.2023, *inter alia*, directing the learned DRAT to consider the appeal in a time bound manner. However, the said order appears to have been disregarded and the Chairperson of the learned DRAT passed an order dated 05.12.2023 recusing from the said appeal. In the aforesaid backdrop, the petitioners have filed the above-captioned petition.

8. At this stage, it is also necessary to notice that the principal contention



advanced on behalf of the respondents for contesting the action of the petitioner under Section 13(4) of the SARFAESI Act is that the notice of symbolic possession dated 25.03.2022 issued under Section 13(4) of the SARFAESI Act was not served properly upon the respondent as it was not in accordance with Rule 8(2) of the Security Interest (Enforcement) Rules, 2002. It is contended that the possession notice was required to be published within seven days. However, the same was not done.

9. Since the petitioner had secured an order dated 08.08.2022 from the learned Chief Metropolitan Magistrate (CMM) whereby a Receiver was appointed, on the basis of the aforesaid notice under Section 13(4) of the SARFAESI Act, the said order was also called into question by the respondent.

10. The learned counsel appearing for the petitioner submits that to cut short the entire controversy, the petitioner is willing to withdraw the notice dated 25.03.2022 issued under Section 13(4) of the SARFAESI Act. Consequently, the order dated 08.08.2022 passed by the learned CMM will be required to be set aside. He submits that in view of the above, the respondent's application under Section 17 of the SARFAESI Act before the learned DRT would be rendered infructuous. Further, the petitioner's appeal before the learned DRAT would also not survive.

11. Mr Bhandari, learned counsel appearing for the respondent concurs with the learned counsel for the petitioner and submits that if the petitioner withdraws the notice dated 25.03.2022 issued under Section 13(4) of the SARFAESI Act, the order of the learned CMM dated 08.08.2022, the respondent's application before the learned DRT (SA No.450/2022) as well as the petitioner's appeal before the learned DRAT (Appeal No.233/2022)



would not survive. He is agreeable to the suggestion made on behalf of the petitioners

12. Although today, only the application for seeking early hearing was listed, in view of the consensus arrived at between the parties, this Court considers it apposite to dispose of the above-captioned petition by recording the petitioners' concession that the notice dated 25.03.2022 under Section 13(4) of the SARFAESI Act stands withdrawn.

13. Consequently, the order dated 08.08.2022 passed by the learned CMM appointing a Receiver to take over possession of the mortgaged property is also set aside. The respondent's application under Section 17 of the SARFAESI Act (being SA No.450/2022) stands disposed of. The appeal preferred by the petitioner before the learned DRAT (Misc. Appeal No.233/2022) is also disposed of.

14. In view of the above, no further orders are required to be passed in the above-captioned petition as well. The same is also disposed of in the aforesaid terms. All pending applications are disposed of as well.

15. The hearing scheduled on 30.05.2024 stands cancelled.

16. It is clarified that nothing stated in this order will preclude the petitioner from taking such steps as may be advised under the SARFAESI Act or any other Statute including on the basis of the notice dated 03.11.2021 issued under Section 13(2) of the SARFAESI Act.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

APRIL 10, 2024/RK