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

+ **W.P.(C) 2590/2024 & CM APPL. 10632/2024**

**ASHOK KUMAR & ANR.**

..... Petitioners

Through: Mr. Prince Mohan Sinha, Mr. Dinesh  
Mohan Sinha, Mr. Maneesh Jain, Mr.  
Shiv Nath, Advocates  
(M:9899527596)

versus

**CHOLAMANDALAM INVESTMENT AND FINANCE CO. LTD.**

..... Respondent

Through: Mr. Sidharth Chopra, Mr. Aditya Raj,  
Advocates (M:7073011531)

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER**

**27.02.2024**

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1. The present petition has been filed with prayer for quashing the action of respondent-bank for selling the property in question through E-Auction dated 21<sup>st</sup> November, 2023.
2. It is submitted that the petitioners have taken a housing loan on property bearing No. E-67, South Anarkali Krishna Nagar, New Delhi – 110051. The loan amount was for Rs. 37,00,000/- for which an installment of Rs. 57,499/- was fixed. It is the case of the petitioners that the said installments were being paid regularly, however, due to the Covid-19 pandemic, petitioners suffered many losses on account of which they were unable to make payments towards the installments.
3. By way of the present petition, it is pleaded that the petitioners are ready to pay an amount of Rs. 16,00,000/- as full and final settlement to



settle the loan account of the petitioner.

4. It is submitted that a Possession Notice dated 30<sup>th</sup> August, 2022 was received by the petitioners for taking possession of the aforesaid property, passed pursuant to an application filed by the respondent-bank before the Debt Recovery Tribunal (“DRT”) under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI Act”).

5. It is submitted that subsequently the petitioners approached learned DRT and the matter was considered by the DRT-II, Delhi. By order dated 18<sup>th</sup> August, 2023, it was recorded that both the parties were ready for settlement. It is submitted that thereafter the petitioners filed an application being *I.A. No. 1237/2023* before the DRT-II.

6. Subsequently, a sale notice dated 21<sup>st</sup> November, 2023 was issued by the respondent-bank, against which the petitioner filed an application under Section 17(7) of the SARFAESI Act. It is submitted that the application of the petitioner is still pending before the learned DRT and is next listed on 08<sup>th</sup> May, 2024.

7. Thus, it is submitted that the action of the bank is not in accordance with what was recorded in the order dated 18<sup>th</sup> August, 2023 by the learned DRT. It is further submitted that the notice issued for the sale of the property is contrary to law, since the matter is pending before the learned DRT.

8. Per contra, learned counsel for respondent on advance notice submits that subsequent to the aforesaid E-Auction dated 21<sup>st</sup> November, 2023, a fresh E-Auction notice dated 09<sup>th</sup> January, 2024 was issued. Pursuant to the same, E-Auction of the property was held and Sale Certificate dated 16<sup>th</sup> February, 2024 has already been issued to the highest bidder. Thus, he



submits that no relief can be granted to the petitioners in the present proceedings.

9. After hearing learned counsels for the parties, this Court grants liberty to the petitioners to approach the learned DRT in appropriate proceedings in respect of the submissions made on behalf of the petitioners.

10. This Court also grants liberty to the petitioners to move an application for early hearing to the learned DRT in the pending application filed by the petitioners before the learned DRT.

11. With the aforesaid directions, the present petition is disposed of, along with pending application.

**MINI PUSHKARNA, J**

**FEBRUARY 27, 2024**

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