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

+ **W.P.(C) 3369/2024 & C.M.Nos.13862-13863/2024**

VARAHI DIAMOND AND FINANCE LIMITED AND ANR.

..... Petitioners

Through: Ms.Ravi Gupta, Sr.Advocate with
Mr.Apoorv Agarwal, Mr.Mohit
Chaudhary, Ms.Prachi Darji,
Ms.Saloni Singh, Ms.Kanishka Lunia
and Mr.Bhanukaran Singh Jodha,
Advocates.

versus

INDIAN OVERSEAS BANK & ORS.

..... Respondents

Through: Ms.Kanika Baweja with Ms.Surti
Sood and Ms.Anjali Jain, Advocates.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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05.03.2024

1. Present writ petition has been challenging the order dated 02nd March, 2024 passed by the Debts Recovery Tribunal-III, New Delhi in SA No.02/2024 as well as the order dated 24th January, 2024 passed by the Chief Metropolitan Magistrate, Tis Hazari in CIS No. 145/2024 and the Receiver's Notice dated 16th February, 2024 issued by the Receiver – Ms. Diksha Jaspal for taking physical possession of the subject property i.e. Commercial Shop - Show Room at WZ-1 to 12, Ugarsain Market, Ashok Nagar, near Tilak Nagar, New Delhi 110018 in pursuance of the aforesaid order dated 24th January, 2024.
2. Learned senior counsel for the petitioners states that vide order dated 02nd March, 2024, the stay application filed by the petitioners in SA



No.02/2024 has been listed for 06th March, 2024 without considering the fact that as per Receiver's Notice dated 16th February, 2024, the physical possession of the subject property is to be taken on 05th March, 2024. He states that the learned DRT-III failed to consider the urgency of the matter, which will ultimately jeopardize the interest of the petitioners with respect to the mortgaged properties.

3. Learned counsel for the respondent-bank states that the Receiver has intimated to the bank that she will not be taking possession of the suit property today.

4. Though this Court has grave doubt as to the maintainability of the present writ petition as the petitioners have '*jumped a step in the ladder*', inasmuch as, they have not approached the Debts Recovery Appellate Tribunal (DRAT) before filing the writ petition, yet in view of the statement made by learned counsel for the respondent-bank and the fact that the matter is listed before the DRT tomorrow i.e. 06th March, 2024, this Court disposes of the present writ petition along with the applications after recording the statement of learned counsel for the respondent-bank.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MARCH 5, 2024
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