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

+ **W.P.(C) 4185/2024 & CM APPL. 17131/2024**

SUNITA SHARMA AND ANR.

..... Petitioners

Through: Ms. Pratiti Rungta, Adv.
M: 99991919350
Email: pratitirungta@gmail.com

versus

**J.C. FLOWERS ASSET RECONSTRUCTION PVT
LTD**

..... Respondent

Through: Mr. Hashmat Nabi & Mr. Toshif
Ahmed, Advs.
M: 7999142296
Email: hashmatnabi@gmail.com

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

ORDER
20.03.2024

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CM APPL. 17131/2024 (For Exemption)

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

W.P.(C) 4185/2024

3. The present petition has been filed with prayer for directions to the respondent for extending the period of taking over the possession of Plot No. 30, Block-B, Sushant Lok Phase-3, Gurugram.
4. Learned counsel appearing for the petitioners submits that a possession notice dated 05th March, 2024 has been issued by the concerned Naib Tehsildar-cum-Executive Magistrate, Wazirabad, for taking over the



possession of the property in question on 21st March, 2024.

5. She submits that the present petition has been filed as a mercy petition on the ground that the son of the petitioners is getting married on 17th April, 2024 and that the marriage cards have already been published in which the address of property in question has been given.

6. Per contra, learned counsel appearing for the respondent submits that in the present case, the order under Section 14(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (“SARFAESI”) Act, 2002 was issued by the Court of District Magistrate, Gurugram on 06th April, 2022.

7. He submits that since then, the concerned Magistrate had not issued any possession notice for taking possession of the property in question. Thus, the writ petition being *CWP No. 25677/2022* has been filed by the respondent in Punjab and Haryana High Court.

8. He further submits that despite service, the petitioners herein are not appearing in the said petition.

9. Learned counsel for the respondent has handed over a copy of the writ petition filed before the Punjab and Haryana High Court, wherein the respondent has clearly prayed for directions to the concerned Magistrate to take over the physical possession of the property in question, which is a secured asset, in terms of the order dated 06th April, 2022 passed in *Case No. 11/SA/DM*.

10. Learned counsel appearing for the respondent further points out that the petitioners herein also approached the learned Debt Recovery Tribunal (“DRT”) and had filed an interim application in *SA/46/2024*. He submits that by order dated 14th February, 2024, the interim application filed on behalf of



the petitioners herein has been dismissed.

11. Having heard learned counsel for the parties, this Court is of the view that the petitioner is not entitled to any relief from this Court. This Court notes that by order dated 06th February, 2022 in *Case No. 11/SA/DM*, the District Magistrate, Gurugram has already passed an order under Section 14(1) of the SARFAESI Act with respect to the property in question.

12. This Court further notes that the interim relief as prayed by the petitioners before the learned DRT has also been rejected by order dated 14th February, 2024.

13. This Court also records the fact that despite the service, the petitioners are not appearing before the Punjab and Haryana High Court in *CWP No. 25677/2022*, which is the petition filed on behalf of the respondent herein.

14. In the said petition before the Punjab and Haryana High Court, the respondent herein has prayed for directions for compliance of the order dated 06th April, 2022 passed in *Case No. 11/SA/DM*.

15. Thus, considering the aforesaid, this Court finds no merit in the present petition.

16. At this stage learned counsel appearing for the petitioners submits, on instructions, that the petitioners may be given a short time of one week to remove their goods from the premises in question.

17. Though this Court is of the considered view that the petitioners are not entitled to any indulgence from this Court, however, in view of the fervent plea made by the petitioners, this Court directs that the petitioners shall be allowed time till 27th March, 2024 to remove their goods and make alternate arrangements for themselves.

18. It is directed that the petitioners shall vacate the whole property



bearing Plot No. 30, Block-B, Sushant Lok Phase-3, Gurugram by 27th March, 2024. The petitioners shall hand over the property in question to the concerned Naib Tehsildar-cum-Executive Magistrate, Wazirabad on 27th March, 2024. It is made clear that in case the petitioners do not hand over the possession of the property to the concerned Magistrate in terms of this order on 27th March, 2024, then the concerned Magistrate will take possession of the whole property in terms of the possession notice dated 05th March, 2024.

19. Let an undertaking be filed by the petitioners in this regard by tomorrow, with advance copy to learned counsel appearing for the respondent on the E-mail which is reflected in today's order. It is further clarified that in case the petitioners do not file the requisite undertaking tomorrow by 12:00 PM, the concerned Magistrate shall be free to take possession of the property in terms of the possession notice dated 05th March, 2024.

20. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MARCH 20, 2024/kr