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

\+ W.P.(C) 5861/2024 & CM APPL. 24227/2024

VINEETA PANDEY & ORS. ..... Petitioners

Through: Mr. Satish Pandey, Ms. Jay Jaimini Pandey and Mr. Santosh Kumar Singh, Advocates.
Mob: 9810984245

versus

CANARA BANK & ORS. ..... Respondents

Through: Mr. Arjun Malik, Advocate for R-1.
Mob: 9873503295
Email:
malikaadvocates05@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

O R D E R

% **26.04.2024**

CM APPL. 24227/2024 (For Exemption)

1. Exemption allowed, subject to just exceptions.

2. Application is disposed of.

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3. The present petition has been filed with the following prayers:

> *"a) issue a writ in the nature of mandamus and direct respondent No.1 to settle & satisfy the loan amount under the respective guidelines of the RBI issued regarding ONE TIME SETTLEMENT (OTS): OR*
>
> *b) direct Respondent No.1 to accept the dues of the EMI for a sanctioned loan, from petitioner No. 01 on behalf of Respondent No.*

02;

c) direct the Respondent no. 1 not to dispose of and maintain the status quo to the loaned property i.e. Flat No. D-403 4th Floor, D Block Amrapali Princely Estate, Plot No. CH.02.A NOIDA, District-Gautam Buddha Nagar, U.P.; and.OR

xxx xxx xxx"

4. Learned counsel appearing for the petitioners submits that the loan amount was taken by the respondent no. 2-husband from the respondent no. 1-bank, by mortgaging the property in question, bearing flat no. D-403, 4th Floor, Tower Block D, Amrapali Princely Estate, Plot no. GH-02.A, Sector-76, Noida, U.P., wherein the petitioner is residing alongwith the children.

5. Learned counsel appearing for the petitioner submits that in order to defeat the right of the petitioners to continue to stay in the matrimonial home amidst the matrimonial disputes between the parties, and in order to uproot the petitioners from the said residence, the respondent no. 2 has deliberately stopped depositing the instalments of the home loan amount. Thus, due to this fact, the loan account of respondent no. 2, wherein the property in question has been put to mortgage, has been declared as a Non Performing Asset ("NPA").

6. Learned counsel appearing for the petitioners submits that the petitioners are ready to pay the Equated Monthly Instalments ("EMIs") to the respondent bank and are ready to offer a One Time Settlement ("OTS") to the respondent bank in regard thereto.

7. Attention of this Court is also drawn to the representation dated 20th April, 2023 submitted by the petitioners to the respondent no. 1-bank, which has still not been decided.

8. Learned counsel appearing for respondent no. 1, appearing on

advance notice, submits that the bank would have no objection to decide the representation of the petitioners in this regard, in view of the submissions made before this Court.

9. Accordingly, it is directed that the present writ petition shall be treated as a Representation. The respondent no. 1-bank shall give personal hearing to the petitioners at the time of considering their Representation. Thus, it is directed that the Representation of the petitioners shall be decided by the respondent no. 1-bank expeditiously, preferably within three weeks from today.

10. Till the decision of the Representation of the petitioner, the respondent no. 1-bank is directed not to take any coercive steps with respect to the property in question.

11. It is made clear that pendency of the Representation of the petitioners, would not be a bar for the petitioners, to deposit the EMIs before the respondent no. 1- bank. Thus, it is directed that the petitioners shall deposit the pending EMIs with the respondent no. 1-bank within a period of three weeks from today.

12. The respondent no. 1-bank is directed to accept the amounts towards the EMIs, to be paid by the petitioners.

13. At this stage, learned counsel appearing for the petitioners submits that the amount of EMIs to be deposited by the petitioners ought to be adjusted towards the OTS, if arrived at between the parties.

14. Needless to state, the respondent no. 1-bank shall be at liberty to adjust the amount of EMIs paid by the petitioners at the time of arriving at any OTS between the parties.

15. Accordingly, the petitioners are directed to approach the respondent

no. 1-bank within three working days with a proposal for One Time Settlement to settle the Home Loan Account.

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

MINI PUSHKARNA, J

APRIL 26, 2024
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