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

+ **CONT.CAS(C) 800/2024, CM APPL. 28953/2024**

SARBAJEET KAUR

..... Petitioner

Through: Mr. J.S. Kohli, Mr. Raj Vardhan
Upadhyay and Mr. Himanshu Verma,
Advocates.

versus

**ADITYA BIRLA HOUSING FINANCE LTD. THROUGH ITS
CEO/DIRECTOR MR.PANKAJ MADAV GADGIL & ANR.**

..... Respondent

Through: Ms. Jasmeet Sharma, advocate

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

28.05.2024

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1. The present petition has been filed alleging willful disobedience of the order dated 27th December, 2021 passed by the Debt Recovery Tribunal (“DRT”)-I, Delhi in case bearing No. S.A. 174/2021, titled as ***Sarabjeet Kaur vs. Aditya Birla Housing Finance Limited.***
2. By way of aforesaid order the learned DRT has granted a stay order in relation to the subject property and directed the parties to maintain *status quo* in respect of the property, i.e., entire upper ground floor, without roof right, in property bearing No. M-47/B Part of Khasra No.56, Village Nangli Jalib, New Mahavir Nagar, Gali No.4, New Delhi-110018.
3. The present petition has come to be filed, since it is the case of the petitioner that despite the aforesaid *status quo* order, the respondent has



taken symbolic possession of the property by issuing notice under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI”), in complete violation of the order dated 27th December, 2021.

4. Ms. Jasmeet Sharma, Advocate has put in appearance on behalf of the respondent. She submits that the earlier proceedings initiated by the respondent under Sections 13(2) and 13(4) of the SARFAESI Act have been withdrawn. She further submits that learned DRT has already been informed about the same.

5. However, learned counsel appearing for the petitioner submits that he is not aware of any such information, and he has not been informed about the same.

6. Learned counsel appearing for the respondents further submits that fresh proceedings under Section 13(2) SARFAESI Act have been initiated by the respondents. She submits that the possession of the property in question has still not been taken.

7. Having heard learned counsel for the parties, this court notes that vide order dated 27st December, 2021, passed by the learned DRT, the following directions have been passed:

“1. The present securitization application has been filed by the S. applicant praying therein to restrain the respondent FI/Court receiver from taking physical possession of the property bearing no.M-47/B, Gali no.4, New Mahavir Nagar, Tilak Nagar, West Delhi-110018 (hereinafter referred as the property in question) on 27.12.2021.

2. Ld. counsel for the S. applicant submitted that the respondent FI has issued the demand notice dated 08.06.2021 against the legal heirs of late Shri Gurmeet Singh, however, the name of the legal heirs have not been mentioned in the said notice, therefore, the said demand notice is bad in law. Accordingly, it has been prayed for restraining the respondent FI/court receiver from taking physical possession of the property in question.



3. On the other hand, Ld. counsel for the respondent FI submitted that since the borrower/ mortgagor has not disclosed the particulars of the legal heirs of deceased Shri Gurmeet Singh, therefore, the name of legal heirs was not mentioned In the said demand notice.

4. Heard both the parties and perused the records. Admittedly, the name of legal heirs of deceased Late Shri Gurmeet Singh was not mentioned in the demand notice dated 08.06.2021 Issued by the respondent FI and on the basis of the said demand notice, the respondent FI proceed further under the SARFAESI Act, 2002 qua the property In question. **Therefore, all the parties are hereby directed to maintain the status quo the property in question ill further order.** However, all these issues shall be decided by this Tribunal after filling the replies, rejoinder, evidences and exhibition of the documents by the parties.”

(Emphasis Supplied)

8. Reading of the aforesaid order clearly shows that the learned DRT had given categorical directions to maintain *status quo* with regard to the property as aforesaid.

9. Accordingly, the respondents cannot try to overreach the order passed by the learned DRT, by first withdrawing the earlier proceedings under Sections 13(2) and 13(4) of the SARFAESI Act, *qua* which *status quo* order had been passed; and thereafter, initiate fresh proceedings under Section 13 (2) SARFAESI Act and try to take possession of the property in question on the said basis. This is certainly an attempt to overreach the judicial order passed by the learned DRT, wherein, *status quo* order had been passed.

10. This Court further notes that application being S.A. 174/2021 is still pending before learned DRT, as informed by the learned counsel for the petitioner.

11. Accordingly, respondents are directed to comply with the *status quo* order that has passed by the learned DRT vide order dated 27th December, 2021, till the same is modified by the learned DRT.



12. With the aforesaid directions the present petition is disposed of, with liberty to the petitioner to revive the present petition, in case of any non-compliance by the respondent.

MINI PUSHKARNA, J

MAY 28, 2024/ss