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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8644/2024 & CM APPL. 35390/2024 (seeking ex-parte ad interim stay)**

RAJESH PANDEY

..... Petitioner

Through: **Mr. Sidharth Chopra & Mr. Navneet Thakran, Advocates.**

versus

EDELWEISS ASSET RECONSTRUCTION CO LTD & ORS.

..... Respondent

Through: **Mr. Aditya Prasad & Mr. Amit Kumar, Advocates for R-1 (through VC).**

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **14.06.2024**
CM APPL. 35391/2024 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application is accordingly disposed of.

W.P.(C) 8644/2024 & CM APPL. 35390/2024 (seeking ex-parte ad interim stay)

3. The present petition under Articles 226 and 227 of the Constitution of India seeks the following prayers:

“a. Issue a writ of mandamus or any other writ, orders or directions thereby setting aside the order dated 28.05.2024 passed by the Ld. Debts Recovery Tribunal – I, Delhi in the



matter titled as “Rajesh Pandey Vs. Edelweiss Asset Reconstruction Co. Ltd.” bearing S.A. No. 226/2024.

b. Pass such other or further order(s) as may be deemed fit and proper in facts and circumstances of the present case.”

4. Learned counsel appearing on behalf of the petitioner submits that the latter was inducted as a tenant in the suit premises way back in 1985 by Ms. Sumitra Devi, the then owner/landlord of the said premises. Thereafter, one Mr. Neeraj Gupta, claiming himself to be owner through a Sale Deed executed in his favour by a third party, had instituted two petitions for eviction of the present petitioner under Section 14(1) (a) and Section 14 (1) (e) of The Delhi Rent Control Act, 1958. Since the petitioner was disputing the title of Mr. Neeraj Gupta, the Leave to Defend these applications was granted to the petitioner by the learned Additional Rent Controller.

5. It is further explained that Mr. Neeraj Gupta executed a Gift Deed on 14.03.2019 in favour of his father, who in turn mortgaged the said premises with the IndusInd Bank on 30.03.2019. The father of Mr. Neeraj Gupta defaulted in repayment of loan and consequently, proceedings under the SARFAESI Act, 2002, were initiated by the respondents herein being the successor-in-interest of the IndusInd Bank from whom the Loan was taken. The petitioner in accordance with law approached the DRT under Section 17 of the SARFAESI Act. The DRT *vide* order dated 28.05.2024, dismissed the interim Application of the petitioner seeking protection/possession of the suit property. An Appeal has been preferred before DRAT and it is listed for 11.07.2024.

6. The controversy in the present matter pertains to the ownership of the subject suit premises. So far as the present petitioner is concerned, it is apparent that he was inducted as a tenant in the subject suit premises. It is



pertinent to note that even if the property is required to be sold for the default in repayment of loan amount by father of the Mr. Neeraj Gupta, then too it must be sold on 'as is where is' basis and the tenant/petitioner who is in occupation of the property, cannot be evicted without due process of law.

7. Learned counsel appearing on behalf of the respondent No. 1, on advance Notice, submits that the matter is listed before the DRAT on 11.07.2024.

8. In view of the aforesaid submissions made by the parties, they are directed to maintain *status quo* in respect of the subject suit premises till the matter is listed before DRAT on 11.07.2024.

9. Accordingly, the present petition is disposed of with aforesaid directions.

10. Pending application(s), if any, also stands disposed of.

11. Order be uploaded on the website of this Court *forthwith*.

**NEENA BANSAL KRISHNA
(VACATION JUDGE)**

**AMIT SHARMA
(VACATION JUDGE)**

JUNE 14, 2024/bsr