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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2572/2024 and CM APPL. 10583/2024, CM APPL. 10584/2024**

SHAILENDRA KUMAR SHARMA ANR Petitioners

Through: Ms. Niyati Sharma and Mr. Saurabh
K Kaushik, Advocates.

versus

RESERVE BANK OF INDIA ORS Respondents

Through:

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Date of Decision: 21st February, 2024

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

1. Present writ petition has been filed inter alia seeking a direction to Debts Recovery Tribunal (DRT)-I and (DRT)-II, Delhi to stay proceedings in Original Application (OA) No.1101/2019 and 505/2018 filed by respondent no.2/Central Bank of India and respondent no.3/Corporation Bank respectively on the ground that Corporate Insolvency Resolution Process ('CIRP') has commenced against the respondent no.4/builder and there exists a tripartite agreement, wherein the builder is liable for repayment of the loan to the banks.



2. Learned counsel for the petitioners states that petitioners are not liable to pay the purported loan amount to the respondent nos.2 and 3 in terms of Clause 14 of the Tripartite Agreement dated 16th June, 2016 and 17th June, 2016 respectively. She states that it is the respondent no.4/builder who is liable to repay the purported loan amount.

2.1 She states that the Petitioners have filed a case in U.P. RERA against the respondent no.4 being Complaint No. NCR144/06/0978/2019, wherein vide order dated 08th September, 2020, the respondent no.4/builder had been held liable to pay a sum of Rs. 93,90,901.15/- till 31st July, 2020 to the petitioner along with yearly interest.

2.2 She states that CIRP has been initiated against respondent no.4 in Company Petition no. IB-919/ND/2020 vide order dated 12th January, 2022. She states that an Interim Resolution Professional ('IRP') has been appointed and moratorium under Section 14 of IBC, 2016 has been put into effect. Therefore, the proceedings before DRT-I and DRT-II ought to be stayed. She also relies upon the interim order dated 20th July, 2021 passed in W.P.(C) No.6774/2021 arising in similar facts.

3. Having heard learned counsel for the petitioners, this Court is of the view that the submissions made by learned counsel for the petitioners that the proceedings ought to be stayed as moratorium under Section 14 is in effect is misconceived since the moratorium is applicable against the Corporate Debtor and will not operate against any action initiated by the bank against the petitioners/borrowers.

4. Further the interim order dated 20th July, 2021 passed in W.P.(C) No.6774/2021 no longer survives as the said writ petition had been disposed



of with liberty to the petitioners therein to urge all their grounds before the DRT.

5. Consequently, the present writ petition and applications are dismissed with liberty to the petitioner to urge all grounds and submissions before the DRT.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 21, 2024/sk

Click here to check corrigendum, if any