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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13798/2024**

BABITA VISHNOI & ANR.Petitioners
Through: **Mr. Rakesh Kumar and Mr.**
Pawan Kumar, Advs.
versus

BANK OF BARODARespondent
Through: **Mr. Arun Aggarwal, Mr.**
Shivam Saini, Mr. Praful Rawat
and Ms. Tanya Setia, Advs.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

% **ORDER**
01.10.2024

1. The petitioners are invoking the writ jurisdiction of this Court, seeking stay on the auction proceedings of the house/secure asset of the petitioners, which was scheduled for auctioning for the second time by the respondent/Bank on 25.09.2024 under the provisions of the SARFAESI Act².
2. Learned counsel for the respondent is present on advance notice, who has urged that the present writ petition is not maintainable, as there exists an efficacious remedy of filing an appeal against the order dated 05.06.2024, passed by the learned Debts Recovery Tribunal-I, Delhi³.
3. It is also pointed out that the petition suffers from a defective affidavit, inasmuch as the petition was filed on 25.09.2024, while the affidavit appears to have been attested by the Oath Commissioner on 30.05.2024.

² The Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2005

³ DRT



4. Learned counsel for the petitioners has urged that the petitioners had availed home loan and they had been regularly making payment of the Equal Monthly Installments⁴ on time, and out of Rs. 35 lakhs borrowed towards loan amount, Rs. 29 lakhs had already been paid, but due to the onset off Covid-19 Pandemic period, they were not in a position to make payments and their accounts had become NPA⁵.

5. The grievance of the petitioners is that the order under Section 14 of the SARFAESI Act passed by the learned CMM, East District, Karkardooma Courts, Delhi dated 09.02.2024 based on wrong and fabricated facts pleaded by the respondent Bank and although they repeatedly moved an application before the learned DRT for staying the auction and sale of the property, the matter was not heard on 05.06.2024 and the matter was simply put for 06.06.2024 for filing of a reply.

6. Without much ado, on the face of it, the present writ petition is not maintainable. The petitioners had an adequate remedy to assail the orders of the DRT, if any, before the Appellate Forum which recourse has not been adopted. The order of the learned CMM dated 09.02.2024 is assailed after the petitioners have submitted to the jurisdiction of the DRT and having done so, they cannot invoke the jurisdiction of this Court in the writ proceedings.

7. Accordingly, the present writ petition is dismissed without prejudice.

DHARMESH SHARMA, J.

OCTOBER 01, 2024

Sp

⁴ EMI's

⁵ Non Performing Assets