



\$~59 (2021 Cause List)

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

+ W.P.(C) 11680/2021

DEEPIKA GUPTA

..... Petitioner

Through: Mr. Gaurav Mannuja, Advocate

versus

M/S IDFC FIRST BANK LTD

..... Respondent

Through: Ms. Sampanna Pani, Ms. Ridhi
Pahuja, Advocates for IDFC

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

11.10.2021

The proceedings in the matter have been conducted through video conferencing.

CM APPL. 36155/2021 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 11680/2021 with CM APPL. 36154/2021 (for temporary injunction)

1. Issue notice. Ms. Sampanna Pani, learned counsel, accepts notice on behalf of the respondent-Bank.
2. The petitioner is a co-borrower in respect of a housing loan taken from the Bank. By a notice dated 11.04.2021 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [“the SARFAESI Act”], the Bank alleged that the petitioner’s account was overdue and had been declared as a Non-Performing Asset. A demand for the sum of Rs.



78,34,220/- was raised upon the petitioner and other borrowers. The Bank also contemplated action under the SARFAESI Act in respect of the property mortgaged under the said loan, i.e. Upper Ground Floor bearing No. 57 in Pocket-28, Sector 24, Rohini, Delhi-110085 [“the property”].

3. At the instance of the Bank, the Chief Metropolitan Magistrate [“CMM”] thereafter issued an order dated 20.09.2021 appointing a Receiver over the property, with a direction to take possession thereof. The learned Receiver has issued a notice dated 30.09.2021 fixing the date of possession as 12.10.2021 at 01:00 P.M. It may be mentioned that although the learned Receiver’s notice gives the petitioner fourteen days’ time to hand over the possession of the property, the date fixed for taking over possession is before the lapse of the fourteen days’ period.

4. The petitioner has filed an application before the Debts Recovery Tribunal [“DRT”] under Section 17 of the SARFAESI Act, bearing Diary No. 709/2021. However, the DRT is not functional for want of a Presiding Officer, which has compelled the petitioner to approach this Court. The position that the DRTs in Delhi are at present non-functional was brought to the notice of this Court in several writ petitions, and I have been informed that the question with regard to filling up of the vacancies is pending before the Division Bench of this Court in W.P.(C) 3668/2021 [*Edel Weiss Asset Reconstruction Company Ltd. vs. The Secretary, Department of Financial Services & Ors.*].

5. Mr. Gaurav Mannuja, learned counsel for the petitioner, also submits that the petitioner wishes to regularise her account and repay the overdue amounts to the Bank within a short period.

6. In view of the aforesaid position, this writ petition is disposed of



with the following directions:-

(a) The petitioner is directed to deposit a sum of Rs. 10,00,000/- with the Bank by tomorrow, i.e. 12.10.2021, and a further sum of Rs. 10,00,000/- by 30.10.2021.

(b) The petitioner and the Bank may also enter into discussions with regard to regularisation of the account. The status in this regard will be placed before the DRT when it starts functioning and the securitisation application is taken up for hearing. The petitioner will also be at liberty to move the DRT for expeditious hearing of the application, which will be considered by the DRT in the light of this order.

(c) Subject to the deposit as aforesaid, the Receiver is directed to defer the taking of possession by a period of one month. The taking of possession by the learned Receiver is now fixed for 12.11.2021 at 1:00 P.M. No further notice will be required for this purpose, in the event the petitioner and the Bank are not able to come to terms with regard to the regularisation of the petitioner's account. The Bank may, however, take symbolic possession of the property.

(d) The petitioner is also directed to maintain *status quo* with regard to the title, possession and character of the property, until further orders in that regard are passed by the Tribunal.

(e) Needless to say, this order will stand vacated in the event either of the instalments contemplated hereinabove are not paid.

7. The writ petition, alongwith the pending application, stands disposed of in these terms.

OCTOBER 11, 2021/ 'j'

PRATEEK JALAN, J