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

+ **O.M.P.(I) (COMM.) 202/2022**

**IREO PRIVATE LIMITED ORS** ..... Petitioners

Through: Mr. Mohit Mathur, Sr. Advocate with  
Mr. Sameer Chaudhary, Mr. Surya  
Prakash Khatri, Ms. Ruchi Kumar, Mr.  
Aaryan Sharma and Ms. Sadhvi  
Swarup, Advocates.

versus

**VIBHOR HOME DEVELOPERS PVT LTD**

**ORS** ..... Respondents

Through: Mr. Sandeep Sethi, Sr. Advocate with  
Mr. Ankit Virmani, Mr. Chandra  
Shekhar and Ms. Ruchika Agarwala,  
Advocates for R-1 and 2 (e-mail:  
ankit@virmani.in, Ph. 9920090570).  
Mr. Atul Bhuchar, Advocate for R-3  
(e-mail: atulbhuchar@bhucharlegal.com  
Ph. 9891096655)

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER**

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**15.07.2022**

**I.A. 10813/2022 (filed by petitioners u/S 151 CPC seeking urgent hearing of OMP (I) (COMM) No. 202 of 2022)**

1. This is an application filed on behalf of the petitioners seeking urgent hearing of the petition.

2. Application is allowed and the main petition is taken up for hearing.

**I.A. 10814/2022 (filed by petitioners u/S 151 CPC seeking appropriate urgent directions)**

3. This is an application filed on behalf of the petitioner seeking



stay of operation of the notice 12.07.2022 issued by the Duty Magistrate, Tehsildar, Wazirabad, Gurugram, Haryana to take possession of the secured assets in terms of order dated 06.08.2020 and 04.07.2022 passed by the District Magistrate, Gurugram under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act').

4. Issue notice.

5. Notice is accepted by respective counsels appearing on behalf of respondent Nos.1 & 2 and respondent No. 3.

6. Learned counsel for the respondents, at the outset, states that this Court will not have any jurisdiction under the SARFAESI Act to deal with the notice issued by the Duty Magistrate under Section 14 of the SARFAESI Act. Attention of this Court has been drawn to Section 17 of the SARFAESI Act and it has been argued that the remedy of the petitioners will lie by filing an appeal before the Debts Recovery Tribunal (DRT) in terms of Section 17 of SARFAESI Act. Further, attention of Court has been drawn to judgment of the Hon'ble Supreme Court reported as Kanaiyalal Lalchand Sachdev and Ors. Vs. State of Maharashtra and Ors., (2011) 2 SCC 782, to bring home the point that the action under Section 14 of the SARFAESI Act constitutes an action taken after the stage of Section 13 (4), and therefore, the same would fall within the ambit of Section 17 (1) of the SARFAESI Act and thus, the efficacious remedy of the borrower or any person affected by an action under Section 13 (4)/ Section 14 of the SARFAESI Act would be an appeal before the DRT.



7. Learned counsel for the petitioners on the other hand submits that notice dated 12.07.2022 issued by the Duty Magistrate, Gurugram is without any authority as it is the respondents, who have approached the said authorities and not the PNB Housing Finance Limited, which is the lender in the present case.

8. Let reply be filed by the respondents within two days. Rejoinder thereto, if any, be filed within two days thereafter.

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9. Today, the issue with respect to the MOU dated 14.07.2021, which was stated to have been kept in the sealed cover was argued on behalf of both the parties. Learned counsel for the respondent No.3 has handed over the sealed cover containing the MOU dated 14.07.2021, which has been opened in the presence of all the parties. All the parties are directed to collect the copy of the MOU dated 14.07.2021, which has been taken out from the sealed cover, from the Court Master today itself.

10. Issue notice.

11. Notice is accepted by respective counsels appearing on behalf of respondent Nos.1 & 2 and respondent No. 3.

12. Let reply be filed by the respondents within two days. Rejoinder thereto, if any, be filed within two days thereafter.

13. List on 21.07.2022.

14. Copy of this order be given *dasti* to the parties under the signatures of Court Master.

**MINI PUSHKARNA, J**

**JULY 15, 2022/PB**