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

+ **W.P.(C) 8776/2023, CM APPL. 33151/2023, CM APPL. 42010/2023,
CM APPL. 10511/2024 & CM APPL. 20725/2024**

SUMANT KUMAR AND OTHERS

..... Petitioners

Through: Mr. Karmveer, Mr. Amandeep Singh,
Advocates (M:9891396019)

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through: Mr. Vijay Joshi & Mr. Mohit Joshi,
Advocates for R-1
Mr. Nishant Awana, Ms. Rini Badoni,
Mr. Sahil, Mr. Mayank Chaudhary,
Mr. Sumit Kumar, Advocates for
Respondent No. 4 (M:7838760760)
Ms. Amrita Singh, Mr. Ankit Gupta,
Advocates for R-5 (M:9540502204)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **15.04.2024**

CM APPL. 33151/2023 (For Stay)

CM APPL. 10511/2024 & CM APPL. 20725/2024 (For Early Hearing)

1. The present applications have been filed for early hearing of the matter and for granting interim relief to the petitioners, as granted to other petitioners in other petitions.
2. It is pointed out that this Court has already granted interim protection to home buyers in similar petition being *W.P.(C) 242/2024* titled as *Ram Chand Jain and Ors. Versus Union of India & Ors.*, vide order dated 08th January, 2024.



3. It is further submitted that Supreme Court has also granted interim protection recently to similarly placed home buyers on similar footing, from time to time in various Special Leave Petitions.
4. Attention of this Court has been drawn to the notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (“SARFAESI Act”), attached as *Annexure A-1*. By referring to the aforesaid notice, it is submitted that the petitioners are facing coercive action and the respondents are threatening to take possession of the flat of the petitioners as well as take other actions including under the Negotiable Instruments Act (“NI Act”) against the petitioners.
5. Issue notice. Notice is accepted by learned counsel for respondent nos. 1, 4 and 5.
6. Issue notice to respondent nos. 2, 3, 6 to 10 by all modes.
7. Learned counsel for respondent no.5 submits that the petitioners have clubbed many causes of action together by raising issues pertaining to the three projects, viz. Noida, Greater Noida and Gurugram, that have been clubbed in the present petition.
8. She further submits that petitioners have not made any submissions with respect to the status of the project and the stage of construction. She further submits that the petitioners are relying upon only one notice dated 20th March, 2024. Thus, she submits that when no action is sought to be taken for the time being by the respondent no.5, there is no question of any interim relief in favour of the petitioners.
9. She also relies upon the order dated 18th August, 2023 passed in *SLP (C) Diary no. 20949/2023* to submit that the Supreme Court has extended



the interim relief only in those cases where there was an interim relief from the High Court. She further submits that there is no interim relief extended to the petitioners, who did not have the benefit of interim order from the High Court.

10. She further relies upon the judgment in the case of *Sunil Kumar Pandey and Another Versus Union of India and Others*, 2022 SCC OnLine Del 3621 to submit that the aforesaid judgment passed by the Division Bench was relied upon by the learned Single Judge of this Court at the time of disposing of the batch of petitions. The said matters were ultimately taken to the Supreme Court, however, the aforesaid Division Bench Judgment has not been challenged till date.

11. Learned counsel for respondent no.4 submits that the orders passed by the learned Single Judge of this Court, which are subject matter of the appeals before the Supreme Court, have not been stayed by the Supreme Court. He further submits that notice under SARFAESI Act is a statutory notice and petitioners and other similarly placed persons have the right to seek their remedies before the Debts Recovery Tribunal (“DRT”) under the provisions of SARFAESI Act.

12. Per contra, learned counsel for the petitioners submits that the aforesaid three projects are still not complete and buildings are lying incomplete. He, thus, prays for an interim relief in favour of the petitioners.

13. The matter requires consideration.

14. Let reply be filed within a period of four weeks. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

15. This Court notes that by order dated 08th January, 2024 passed in *W.P.(C) 242/2024*, in similar matters, this Court has already granted interim



protection by holding as follows:

“xxx xxx xxx

8. It is submitted that other similarly placed persons had approached this Court by way of writ petition being WP.(C) No. 949112020 and other connected matters. It is the case of the petitioners that the said writ petition was dismissed by Coordinate Bench of this Court on the ground of availability of alternative remedies. However, the said order is now subject matter of Special Leave to Appeal (C) No. 7649/2023.

9. Learned counsel for the petitioner has handed over copy of order dated 17th April, 2023 passed by the Supreme Court, wherein it has been stated as follows:

“Issue notice, returnable in four weeks.

Since the petitioners have had the benefit of interim protection from 31.01.2022, till the date on which the impugned order was passed, the petitioners shall be entitled to the benefit of the same interim protection till the next date of hearing.”

10. In view of the aforesaid order passed by the Supreme Court, it is submitted that the interim protection that was granted by this Court in the connected writ petition ought to be granted to the present petitioners also.

11. Issue notice. Notice is accepted by learned counsel appearing for respondent no.1. Let notices be issued to respondent nos. 3 to 6 by all modes. Reply is being filed within four weeks. Rejoinder, if any, within two weeks thereafter.

12. Considering the fact that the Supreme Court in the aforesaid Special Leave to Appeal (C) No. 7649/2023 has already directed that similarly placed persons shall be entitled to the benefit of the interim protection that was granted by this Court during the pendency of the writ petitions, it is directed that no coercive steps shall be taken against the petitioners during the pendency of the present writ petition.

xxx xxx xxx”

16. This Court further notes the submissions made before this Court that



the Supreme Court by various orders have also passed interim protection orders in favour of similarly placed persons, as the petitioners herein.

17. The submissions made on behalf of the petitioners in the present application with regard thereto reads as under:

“xxx xxx xxx

9. It is further submitted that the Hon’ble Supreme Court of India has also granted interim protection to the similarly placed homebuyers on similar footing from time to time recently also in various Special Leave Petitions including SLP (Civil) Diary No. 21028/2023, 36894/2023 on 09.10.2023 and Diary Nos. 50270/2023, 50164/2023, 43950/2023 and 37650/2023 on 03.01.2024 and 52029/2023 dated 29.01.2024.....

xxx xxx xxx”

18. This Court also notes the order dated 09th October, 2023 passed by the Supreme Court in *Special Leave Petition (Civil) No. 27565/2023*, which has been placed before this Court, which reads as under:

“Delay condoned.

It is submitted that the present matters are similar to SLP (Civil) No. 7649 of 2023 (Himanshu Singh & Ors. v. Union of India & Ors.) where notice was issued on 17.04.2023.

Issue notice.

The interim order passed by this Court on 17.04.2023 in SLP (Civil) No. 7649 of 2023 will also operate in the present matters.

Tag with SLP (Civil) No. 7649 of 2023. ”

19. Further, this Court also notes other similar orders passed by the Supreme Court. One such order is dated 29th January, 2024 passed by the Supreme Court in *Special Leave Petition (Civil) No. 52029/2023*, which reads as under:

“Delay condoned.



Issue notice to the respondents.

Learned counsel Mr. Kustubh Srivastava accepts notice for respondent No.2-ICICI Bank.

Tag with SLP (C) No.7649/2923.

Since, the Coordinate Bench of this Court in SLP (C) No.7649/2923 has granted interim protection to the petitioner therein, in the interest of consistency, the same interim protection shall follow in this case also.”

20. Considering the aforesaid factual matrix and the fact that the Supreme Court has already directed that similarly placed persons shall be entitled to the benefit of interim protection that was granted by this Court during the pendency of the writ petition, it is directed that no coercive steps shall be taken against the petitioners till the next date of hearing.

21. Re-notify on 21st May, 2024, along with W.P.(C) 242/2024 on the date already fixed.

22. The next date of hearing, i.e., 07th August, 2024, stands cancelled.

MINI PUSHKARNA, J

APRIL 15, 2024

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