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

+ CRL.M.C. 4029/2022, CRL.M.A. 16660/2022 (for ex-parte stay),
CRL.M.A. 16661/2022 (for exemption)

ZENICA LIFESTYLE PVT LTD & ORS. Petitioners
Through: Mr. Samarjit Pattnaik, Mr. Puneet
Relan & Mr. Irfan Muzamil,
Advocates.

versus

M/S RBL BANK LTD Respondent
Through: None.

CORAM:

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **25.08.2022**

CRL.M.A. 16661/2022 (for exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 4029/2022, CRL.M.A. 16660/2022 (for ex-parte stay),

3. This petition under Section 482 Cr.P.C. has been filed for quashing of the complaint bearing No.2983/2021 filed by the respondent under Section 138 read with Sections 141 & 142 of the Negotiable Instruments Act, 1881 (for short, 'N.I. Act').
4. The petitioners are aggrieved by the order dated 12th January, 2022 passed by the learned Metropolitan Magistrate (NI Act), Saket Courts, whereby they have been summoned to face trial on account of the dishonour of the cheques issued by them and on their behalf for a sum of Rs.5 crores.

CRL.M.C. 4029/2022

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5. It may be noted that the petitioners No.2 and 3 are the Directors of the petitioner No.1 and they had been granted a loan by the respondent against mortgage of property bearing No. DPH-01, 12th & 13th Floor, Tower D, Central Park-1, Sector 42, Golf Course Road, Guru gram, Haryana-122022.

6. Mr. Samarjit Pattnaik, learned counsel for the petitioners, submits that the respondent has initiated parallel proceedings, including under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and had been granted permission by the High Court vide order dated 16th October, 2019 to sell the mortgaged property being No.DPH-01, 12th & 13th Floor, Tower D, Central Park-1, Sector 42, Golf Course Road, Guru gram, Haryana-122022, subject to the finalisation of the transaction being only with the approval of the court. It is also submitted that after multiple efforts, the property was in fact auctioned and sold for a sum of Rs.5.50 crores as is evident from the order passed by this Court on 4th June, 2021 (Annexure P-9).

7. Learned counsel further submits that the instant complaint under Section 138 read with Sections 141 & 142 of the N.I. Act was filed subsequent to the sale of the property which according to the learned counsel satisfied the dues that the respondent could claim against the petitioners. According to the learned counsel, the respondent was in fact holding Rs.50 lacs in excess of the loan amount. Thus, there was no liability qua the cheques in question and the complaint be therefore quashed.

8. Issue notice to the respondent, by all permissible modes, returnable before the next date of hearing.



9. List on 23rd November, 2022.
10. Till the next date of hearing, proceedings before the learned Trial Court shall stand stayed.
11. The copy of this order be transmitted electronically to the learned Trial Court.
12. The order be uploaded on the website forthwith.

ASHA MENON, J

AUGUST 25, 2022
ck

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