



2026:DHC:1297-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 27.01.2026***Date of decision: 16.02.2026***

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W.P.(C) 6059/2024

DEVKI NANDAN & ANR.

.....Petitioners

Through: Mr. Vineet Roy, Adv.(VC)

versus

CAPRI GLOBAL HOUSING FINANCE COMPANY LTD & ORS.

.....Respondents

Through: Mr. Shekhar Aggarwal, Adv./R1(VC)

CORAM:**HON'BLE MR. JUSTICE VIVEK CHAUDHARY****HON'BLE MS. JUSTICE RENU BHATNAGAR****J U D G M E N T**

1. The present petition under Article 226 of the Constitution of India assails the order dated 16.02.2024 passed by the Debts Recovery Appellate Tribunal (DRAT), New Delhi in Misc. Appeal No. 132/2023 titled '*Devki Nandan & Anr. v. Capri Global Home Finance Ltd. & Ors.*', and further seeks restraint against Respondent No.1 and its agent/Receiver from taking possession of property bearing No. 20, out of Khasra No. 93/2, Lal Dora of Village Azad Pur, Mandir Wali Gali, North West Delhi-110033 (hereinafter, "the subject property").

2. Petitioners claim to be absolute owners in possession of the subject property by virtue of a registered Sale Deed dated 05.11.1999 executed by their grandfather, namely Shri Galli Ram. It is the case of the Petitioners that at the time of purchase, the property comprised a building consisting of a ground floor and first floor. Thereafter, the existing structure was demolished and



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reconstructed up to three floors, allegedly after the Petitioners availed a loan of Rs. 10,00,000/- from Allahabad Bank against a mortgage deed registered on 20.09.2002.

3. It is on 08.06.2022, officials of the Respondent No. 1/Financial Institution visited the subject property and called upon them to vacate the same on the ground that the property stood mortgaged by Respondent Nos. 2 and 3 for availing a loan. Upon enquiry, the Petitioners claim to have discovered that Respondent Nos. 2 and 3 had obtained financial assistances by representing themselves as owners of the property and had created a mortgage in favour of the Respondent No. 1.

4. Aggrieved thereby, the Petitioners state that they lodged a police complaint and also issued a legal notice dated 01.10.2022 to Respondent No. 1. They further instituted Civil Suit No. 772/2022 before the learned Additional District Judge, Rohini Courts, Delhi, which is stated to be pending adjudication. A complaint was also addressed to the Banking Ombudsman on 06.01.2023.

5. It is further claimed that Respondent No. 1 proceeded to take symbolic possession of the subject property on 22.03.2023 without serving any demand notice under Section 13(2) of the SARFAESI Act upon them. Petitioners stated that a legal notice dated 18.04.2023 was issued through counsel objecting to the action of symbolic possession. Subsequently, on 17.06.2023, they received a notice from the Court Receiver appointed by the learned CMM, Rohini Courts, Delhi.



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6. In these circumstances, the Petitioners approached the learned Debts Recovery Tribunal (“DRT”) by filing an application under Section 17 of the SARFAESI Act, which was registered as S.A. No. 353/2023. An *interim* protection was sought pending disposal of the securitisation application; however, the same was declined.

7. Aggrieved thereof, Petitioners preferred an appeal before the Debts Recovery Appellate Tribunal (“DRAT”), seeking *status quo*. The said appeal was dismissed vide the impugned order dated 16.02.2024, leading to the filing of the present petition.

8. By way of the impugned order dated 16.02.2024, the learned DRAT, found that the Sale Deed dated 05.11.1999 relied upon by the Petitioners pertained only to the ground and first floors and did not encompass the third floor, which constituted the secured asset proceeded against and the Petitioners failed to *prima facie* establish exclusive ownership or possession over the third floor. Holding that no irreparable injury would be caused in view of the remedy under Section 17(3) of the Act and that the balance of convenience was not in favour of the Petitioners, the learned DRAT affirmed the DRT’s order declining *interim* relief and dismissed the stay application.

9. Assailing the impugned order, learned counsel for the Petitioners submits that the learned DRAT failed to appreciate that the Petitioners are the lawful owners in settled possession of the subject property, and that Respondent Nos. 2 and 3, by fraudulent and deceitful means, purported to mortgage the same with Respondent No.1 without any valid right, title or authority.

10. We have heard the learned counsel for the parties and perused the record.



11. Our attention has been drawn to the Sale Deed dated 15.10.1992, which predates the document relied upon by the Petitioners. The said Sale Deed was executed by their grandfather, namely, Sh. Galli Ram thereby alienating his rights in the subject property much prior to the year 1999. It is emphasized that pursuant to the Sale Deed of 1992, Respondent Nos. 2 and 3 derived rights in the property through subsequent conveyances. The existence of this prior registered instrument *prima facie* indicates that the original owner had already divested himself of his right, title and interest in the property as early as in the year 1992.

12. It is a settled proposition of law that once a valid conveyance has been executed, the vendor retains no transferable interest in the property thereafter. The maxim *nemo dat quod non habet* squarely applies wherein no person can convey a better title than he himself possesses. Consequently, if the property stood alienated in the year 1992, any subsequent transaction in the year 1999, to the extent it purports to deal with the same property or rights already conveyed, would not confer any lawful title upon the Petitioners.

13. Furthermore, there is nothing placed on record by the Petitioners to substantiate to prove that the Sale Deed dated 15.10.1992 is sham, fictitious, fabricated or forged. In the absence of any *prima facie* material impeaching the validity of the earlier registered conveyance, this Court is unable to disregard the same at this stage.

14. Even otherwise, a plain reading of the Sale Deed dated 05.11.1999 relied upon by the Petitioners makes it abundantly clear that the conveyance is confined to the ground floor and first floor of the property. There is no



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reference whatsoever to the third floor, nor any clause indicating transfer of the entire property or future accretions.

15. The secured asset against which measures under the SARFAESI Act have been initiated pertains to the third floor. In the absence of any express conveyance of rights in the third floor in favour of the Petitioners, and in light of the earlier Sale Deed of 1992, the Petitioners have failed to *prima facie* establish any legally enforceable right, title or interest in the secured asset.

16. The learned DRAT, therefore, rightly found that the Petitioners could not demonstrate exclusive ownership or possession over the third floor and that the measures undertaken by Respondent No.1 were confined to the secured asset.

17. In the considered view of this Court, the impugned order does not warrant interference. The Petitioners have failed to make out a *prima facie* case of title over the secured asset, and in the absence of such foundational right, no equitable relief can be granted. The present petition is, accordingly, dismissed.

18. It is clarified that the dismissal of the present petition shall not prejudice the rights and contentions of the parties in the proceedings pending before the competent forums, which shall be decided independently on their own merits and in accordance with law.

VIVEK CHAUDHARY
(JUDGE)

RENU BHATNAGAR
(JUDGE)

FEBRUARY 16, 2026/kp/tr