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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
WRIT PETITION NO.4902 OF 2015 WITH
CIVIL APPLICATION NO.1219 OF 2015

Latish Ravindra Chheda ...Petitioner
vs.
Union Bank of India & Ors. ...Respondents

Mr.Manish Pradeep Gitay for the Petitioner/applicant
Mr.Shashank N. Fadia for the respondent No.1

CORAM : A.S.OKA, &
V.L.ACHLIYA, JJ.
DATE : SEPTEMBER 9, 2015

P.C.:

1 Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent. By this petition under Article 226 of the Constitution of India, the challenge is to an order passed by the learned Chief Metropolitan Magistrate under section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the said Act of 2002'). It is not in dispute that the order passed by the Chief Metropolitan Magistrate has been already implemented and that the petitioner has been dispossessed. Therefore, a statutory remedy under the said Act of 2002 is always available to the petitioner to challenge the impugned action/order.

2 The petitioner is claiming to be a licensee of

the premises subject matter of the aforesaid order under section 14 of the said Act of 2002. The petitioner is claiming under the Leave and Licence agreement dated 18th July 2012. It is not in dispute that Leave and Licence agreement has been executed after the property subject matter of the licence was mortgaged as a security with the respondent No.1. In any event, a licensee has no right, title or interest in the premises subject matter of the licence. This is not a case where the terms and conditions of the Leave and Licence agreement provide that the licence is irrevocable. From the terms and conditions of the Leave and Licence Agreement, it cannot be said that this is a case of an irrevocable licence. Thus, the possession of the petitioner at highest can be said to be permissive possession and the petitioner could not have claimed any better right than the person who mortgaged secured asset in favour of the respondent No.1.

3 Hence, there is no merit in the petition and the same is accordingly rejected. Civil Application No.1219 of 2015 does not survive and the same is disposed of.

(V.L.ACHLIYA,J.)

(A.S.OKA,J.)

CERTIFICATE

Certified to be true and correct copy of original
signed Judgment/Order.