

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.29037 OF 2015

Miss. Anjali Lalit Singh

.. Petitioner

Versus

M/s. Shree Ambe Construction and others

.. Respondents

Mr. Sandeep Mishra, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 28th OCTOBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 13.10.2015 passed by the Learned District Judge-12, Thane, by which order the Appeal filed by the Petitioner came to be dismissed and resultantly, the order dated 23.12.2014 rejecting the application for temporary injunction filed by the Plaintiff came to be confirmed. Hence, both the Courts below have concurrently held that the Plaintiff has not made out any case for grant of the discretionary relief of injunction. The cause for filing the suit was the possession notice issued by the Respondent No.4 herein i.e. Central Bank of India under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 Act (In short "SARFAESI Act"). The said notice was challenged by the Petitioner by filing the suit in question. The Petitioner lays a claim to the suit property on the basis of an unregistered

agreement to sale allegedly executed by the Defendant Nos.1 to 3. It has been held by the Courts below that the Plaintiff failed to produce any document on record to show that the Defendant Nos.1 to 3 have/had interest over the suit property and they had a saleable right in the suit property. The suit property it seems was the secured asset on the basis of which the loan was advanced to one Yusuf Shaikh by the Respondent No.4. On the said Yusuf Shaikh defaulting in repayment of the same that the Respondent No.4 herein which is a Nationalized Bank took steps to recover the amount and pursuant to which a possession notice under the provisions of the SARFAESI Act came to be issued. The said loan was advanced to the said Yusuf Shaikh on the said Yusuf Shaikh depositing the documents of title with the Respondent No.4. The Respondent No.4 i.e. the Bank filed the documents in question in the Trial Court being the loan application of Yusuf Shaikh, sanction order dated 08.10.2011, loan agreement dated 20.10.2011, title report given by advocate, register agreement for sale which according to the Courts below establish the connection between Yusuf Shaikh and the premises. The Courts below have observed that though the Plaintiff has made allegations against the said Yusuf Shaikh, she has not joined him as a party to the suit and therefore the bald allegation of the Plaintiff could not be accepted. In the light of the concurrent orders passed by the Courts below, no case for

interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

2. At this stage, the Learned Counsel for the Petitioner prays for stay of the instant order. In the facts and circumstances, the said prayer is rejected.

[R.M. SAVANT, J]