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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10253 OF 2014**

Jagdish Vitthal Shetty

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

Mr. Bhavik Manek i/by Mr. V.N. Ajitkumar, for the Petitioner.

Mr. V.S. Gokhale, AGP, for the Respondent No.1.

Mr. B.G. Vaidya, for Respondent Nos.2 to 4.

**CORAM : A.S. OKA &
K.R. SHRIRAM, JJ.**

DATE : 19th AUGUST, 2015

P.C.

. The learned counsel appearing for the Petitioner states that within a period of four weeks from today the Petitioner will prefer an Application under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the said Act"). He prays for continuation of the ad-interim relief granted in this Petition to enable the Petitioner to move the Appellate Authority for grant of appropriate relief.

2. The learned counsel appearing for the Respondent No.2 seeks permission to withdraw a sum of Rs.25 Lakhs deposited by the

Petitioner in this Court. The said prayer is opposed by the learned counsel appearing for the Petitioner.

3. Considering the reply filed by the Petitioner to the notice dated 2nd September, 2014 issued under Section 13 of the said Act, we are of the view that permission deserves to be granted to the second Respondent to withdraw the said amount. It is obvious that withdrawal will be without prejudice to the rights and contentions of the parties in the Application which may be preferred by the Petitioner. Even if the Petitioner ultimately fails, the second Respondent will have to give credit of the said amount of Rs.25 Lakhs to the Petitioner. Hence, we dispose of the Petition by passing the following order :-

ORDER

- (i) It will be open for the Petitioner to prefer an Application under Section 17 of the said Act within a period of one month from today. To enable the Petitioner to prefer an Application and seek appropriate relief therein, ad-interim relief granted on 17th November, 2014 shall continue to operate for a period of two months from today. The second Respondent to provide particulars of the application filed under Section 14 of the said Act to the Petitioner or his Advocate;

- (ii) We make it clear that the Appellate Authority will decide the Appeal as well as interim application therein without being influenced by continuation of ad-interim relief under this order;
- (ii) It will be open for the second Respondent to withdraw a sum of Rs.25 Lakhs deposited in this Court together with interest, if any, accrued thereon. Withdrawal will be without prejudice to the rights and contentions of the parties in the Application which may be preferred by the Petitioner. Even if the Petitioner does not ultimately succeed, credit for the said amount together with interest accrued thereon shall be given to the Petitioner;
- (iii) We also make it clear that all contentions of the parties in the Application under Section 17 of the said Act which may be filed by the second Respondent are kept open;
- (iv) The Petition is disposed of on above terms.

(K.R. SHRIRAM, J)

(A.S. OKA, J)

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