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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11898 OF 2015

Mrs.Runu Desai ... Petitioner

Vs.

Mrs.Kuldeep Walia and another ... Respondents

Ms.Rajalakshmy Mohandas i/b Ms.Jyoti Bamane, Advocate for the Petitioner.

Mr.Rishabh Shah a/w Mr.Abbas Mandriwala i/b Raval Shah & Co., Advocate for Respondent No.2.

CORAM : R.G.KETKAR, J.

DATE : 17th DECEMBER, 2015

P.C. :

. Not on board. At the request of Ms. Rajalakshmy Mohandas, taken up for admission.

2. Heard Ms. Rajalakshmy Mohandas, learned Counsel for the petitioner and Mr. Rishabh Shah, learned Counsel for respondent No.2 at length.

3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 09/10/2015 passed by the learned District Judge -9 Thane below Exhibit 30 in Regular Darkhast No. 259 of 2013. By that order, the learned District Judge allowed the application made by the respondent No.2 in terms of prayer clauses (a), (b), (c) & (e). The

learned District Judge also set aside order issuing warrant of attachment dated 18/02/2015 as also order dated 26/02/2015 for appointing the Court Receiver in respect of the property in dispute.

4. Ms. Rajalakshmy submitted that petitioner had filed reply dated 17/08/2015 to the application filed by 2nd respondent for intervention. However, in that reply, petitioner did not agitate the point that order dated 01/09/2014 passed below application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Act') was operating for a period of one year and thereafter order will become null and void. She, therefore, submitted that the petitioner may be given liberty to file application before the learned District Judge raising this contention.

5. Mr.Shah submitted that in case such liberty is granted, all the contentions of the 2nd respondent including the contention that respondent No.2 could not execute order under Section 14 of the Act as the Court Receiver was appointed may be kept open.

6. In view thereof, Petition is allowed to be withdrawn with liberty as prayed for. In case, the petitioner files application, she will serve copy in advance on respondent No.2 herein before moving the Court for obtaining appropriate orders.

7. Notwithstanding withdrawal of this Petition, for a period of 4 weeks from today, the Court Receiver appointed in respect of

the property in dispute shall not stand discharged and parties are at liberty to obtain appropriate orders in that regard. All the parties to act upon authenticated copy of this order. Order accordingly.

(R.G.KETKAR, J.)