

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4695 OF 2016

Deepak Harkishandass Mirchandani	.. Petitioner
V/s	
The D.C.B. Bank Ltd. & Ors.	.. Respondents

Mr. D.H. Mehta with i/b Mr. R.R. Sharma for the petitioner.
Mr. Rakesh Singh with Mr. P. Mishra i/b M.V. Kini & Co. for
respondent no.1.
Mr. A.V. Joshi for respondent nos.2 to 6.

CORAM: D.H. WAGHELA, CJ. & M.S. SONAK, J.

DATE : 3rd MAY 2016

P.C.:

The petitioner has called into question the interim order dated 15th March 2016 of the Debt Recovery Appellate Tribunal at Mumbai in Appeal No.67 of 2016 which appeal is also filed by the petitioner herein.

2. According to the impugned order, the securitisation application filed by the petitioner herein has already been dismissed and as far as liability towards bank was concerned, the petitioner had claimed to be in possession of the property which was mortgaged to the bank. It is the case of the petitioner that he had not mortgaged that property to the bank and had not relinquished his title in the property even as the signature on letter dated 18th

January 2007 addressed to his brother, the principal borrower, was not in dispute. Under such circumstances, the Tribunal has in the impugned order, held that the petitioner had relinquished his right in the property and hence he had no justification for seeking an order to maintain status quo. Thus rejecting the prayer for interim relief, hearing of the appeal pending before DRAT has been adjourned to 15th June 2016.

3. With the above backdrop of relevant facts, learned counsel appearing for the petitioner, respondent no.1 bank and respondent nos.2 to 6, the principal borrower, fairly stated, without prejudice to rights and contentions of the parties, that status quo as regards possession of the property in question may be maintained in favour of the petitioner on condition that the parties shall cooperate in the earliest practicable hearing and disposal of the main Appeal No.67 of 2016 pending before DRAT so as to conclude the proceeding before DRAT on or before 15th July 2016. It was agreed and expressly understood that if the result of the appeal pending before DRAT goes against the petitioner, he shall voluntarily and without taking of any action on the part of the respondents, hand over peaceful possession of the property in question to respondent no.1 bank. That will, however, be subject to the rights of the parties to take further proceeding in appropriate Court.

4. Learned Senior Advocate Mr. Mehta appearing for the

petitioner, who is present in the Court, stated on instructions that an undertaking on oath to the aforesaid effect shall be filed in the Registry of this Court within a period of one week.

5. In view of the above broad consensus, we request DRAT to hear and decide Appeal No.67 of 2016 pending before it as early as practicable and preferably on or before 14th July 2016.

6. Upon all the learned counsel appearing for the parties concerned having made a solemn statement before this Court that no unnecessary adjournment will be sought or any procrastination will occur at the instance of any of the parties, it is expected that hearing of the appeal pending before DRAT will take place on the next date of hearing, i.e. 15th June 2016, and, if need be, continued on day-to-day basis for hearing and final disposal of the appeal so as to obviate any difficulty to any of the parties.

7. It is agreed and understood amongst the parties appearing before this Court that the status quo as regards possession, ownership and status of the property in question shall be maintained till 15th July 2016.

8. It is clarified at the instance of learned counsel for the parties that a temporary arrangement by way of this order is arrived at in order to ensure early hearing of the appeal and this order shall

not be pressed into service for any other argument in any other Court.

9. Accordingly, the petition is disposed by consent recording the above statements and observations with no order as to costs.

10. It is needless to clarify, but recorded at the request of learned counsel for the respondents that the appeal shall be heard and decided without being influenced by this order.

(M.S. SONAK, J.)

(CHIEF JUSTICE)