

Jinal Jhaveri } **Petitioner**
versus
The State of Maharashtra } **Respondent**

Mr. Nikhil Rajani and Mr. Vinay
Deshpande i/b. M/s. V. Deshpande and Co.
for respondent no. 4.

DATED :- SEPTEMBER 14, 2016

When this matter is called out, Mr. Nedumpara appearing for the petitioner fairly states that he has received instructions that pursuant to the order passed by the learned Chief Metropolitan Magistrate not only the possession of the flat was obtained by the second respondent bank but it has proceeded to sell it and the sale is confirmed on 5th October, 2015. The sale was conducted on 21st September, 2015.

2) In view of this fair stand of the petitioner's counsel and in the event the petitioner desires to obtain any relief in terms of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), he would be required to approach the Debt Recovery Tribunal (DRT). In the event the petitioner desires to apply for amendment to the pending application and by incorporating subsequent events, such an application can always be made and the tribunal can consider it in accordance with law.

3) In the event that request is not considered and favourably, the petitioner has several remedies. In these circumstances, we do not think that the petitioner can be assisted in writ jurisdiction after the above events and in the light of the alternate remedy, which is equally efficacious. The writ petition is, therefore, disposed of. If the petitioner has already attempted to seek any relief, but the tribunal has disposed of both, an interim application and the main application, namely, the securitisation application, then as well, the petitioner can approach the Debt Recovery Appellate Tribunal (DRAT) in the event he is aggrieved by the orders.

4) The petitioner's counsel then makes a request that the auction purchaser, who is now owner of the immovable property, should be directed to maintain status quo as of today.

5) In the present petition we do not have any person styled as auction purchaser. If the petitioner seeks the above relief, then, while pursuing the remedies as above he can always seek restraint against that person. Then, that request has to be considered in accordance with law. Presently, we cannot grant the request made by Mr. Nedumpara and restrain the auction purchaser/owner of the property.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)