

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO.1502 OF 2016

Sudha Impex,
Kandivali (W), Mumbai
V/s.

.... Petitioner

Central Bank of India,
Bandra (E), Mumbai & Ors.

.... Respondents

Mr. Prashant J. Pandit for the Petitioner.

Mr. T.N. Tripathi, i/by M/s. T.N. Tripathi &
Co., for Respondent No.1.

Ms. Uma Palsuledesai, A.G.P., for
Respondent No.3-State.

CORAM : S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 7TH JUNE, 2016.

P.C. :

1. Mentioned. Not on Board. Urgency is made out.
2. The Petitioner has moved this Petition challenging the order passed by the Debts Recovery Tribunal.
3. Though this order is appealable under Section 18 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (*for short*, “*SARFAESI Act*”), the Petitioner submits that presently the Chair-Person is not available. The Appeal has already been

filed, however, no interim application can be made therein. In the meanwhile, Respondent No.1-Bank threatens to take possession of an immovable property in Thane District, which is a residential house.

4. It is clear from the arguments of the Petitioner and the pleadings that the Petitioner has an alternate equally efficacious remedy of an Appeal under Section 18 of SARFAESI Act. Currently, the Chair-Person of the said Tribunal has not been appointed and the in-charge Chair-Person is unavailable on account of sickness.

5. In these circumstances, we direct that, within a period of two weeks from today, the Petitioner shall, without prejudice to its rights and contentions, deposit a sum of Rs.70,00,000/- with Respondent No.1-Bank. The Respondent No.1-Bank, on receipt of the said sum, shall not proceed to take physical possession of the premises for a period of ten days thereafter. To enable the Petitioner to make the deposit, Respondent No.1-Bank shall not take physical possession of the premises for a period of two weeks from today. Protection thereafter is dependent upon compliance with the deposit.

6. This arrangement is made purely to enable the Petitioner to move the learned in-charge Chair-Person. However, bearing in mind that the dues of Respondent No.1-Bank are to the tune of Rs.3,00,00,000/- approximately, [Rupees Three Crores], and only a paltry sum of Rs.50,00,000/- has been deposited, that too two years back, that we passed this order.

7. We clarify that this order shall not bind the learned in-charge Chair-Person either in deciding the application for interim relief or the main appeal itself.
8. All contentions, on merits of this case, are kept open.
9. The Petition is disposed of.
10. Parties to act on an authenticated copy of this order.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [S.C. DHARMADHIKARI, J.]