

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 APPELLATE CIVIL JURISDICTION
 WRIT PETITION NO.2927 OF 2017

Rameshwar Ramchandra Nirmal Petitioner
 vs
 The Bharat Cooperative Bank (Mumbai) & anr .. Respondents

Mr.I.S.Thakur and Ms.Sharan D'Souza I/b Global
 Juris Consultants for Petitioner.

Mr.Prashant Naik I/b Mr.S.R.Waghmare for
 Respondent no.1

Ms.Barsha Parulekar for Respondent no.2

CORAM: R.M.BORDE AND
 A.S.GADKARI, JJ
 DATE: 07 MARCH 2017

P.C.

Mentioned. Not on Board. Upon production taken on Board.

1. The Application tendered by the Petitioner Exhibit 9 in I.A.No.307 of 2017 has not been dealt with on merits. The request for grant of interim protection has not been considered merely on the ground that in the Application tendered by the original borrower in Securitization Application No.41 of 2017, a limited protection has been granted subject to deposit of amount by the Principal Borrower. The Petitioner herein contends that he is a bonafide purchaser for

value without notice of the rights of the bank in respect of the property.

2. We do not propose to go into the merits of the contentions raised by the Petitioner and it would be open for the Petitioner to put forth his grievance before the Appellate Forum in Securitization Application No.192 of 2016 already presented by him. The fate of the Applicant shall not depend upon commission or omission by the Principal Borrower and the Application tendered by the Petitioner herein who claims to be a bonafide purchaser needs to be determined on its own merits.

3. In the circumstances, we direct the Debt Recovery Tribunal,-II Mumbai to decide the Application tendered by the Petitioner being I.A.No.307 of 2017 (Exhibit 9) in Transferred Securitization Application No.192 of 2016 on its own merits and in accordance with law within a period of eight days from today. In the meanwhile the Respondent-Bank shall not take any coercive action against the Petitioner for a period of 10 days commencing from today.

4. Writ Petition is accordingly disposed of.

(A.S.GADKARI, J)

(R.M.BORDE, J)