

WRIT PETITION (L) NO. 526 OF 2017

Sanjana D. Maheshwari. ...Petitioner.

VS.

Punjab National Bank ...Respondent.

Mr. Shyam Mehta, Senior Counsel with Mr. Bhavk Manek and Ms. Kausar Banatwala i/by Tushar A Gorodia for the Petitioner.

Mr. Mable Soans along with Ms. Pinki Bhansali i/by Mable and Associates for the Respondent.

CORAM : R.M. BORDE AND
A.S. GADKARI, JJ.

DATE : 27th February, 2017

PC:

1. The petitioner is seeking directions to the respondent-bank restraining it from taking steps against the petitioner in connection with flat bearing Flat No.1901-B, 19th floor, Royal Residency Co-operative Housing Society Limited, Lalbaug Industrial Estate, Lalbaug, Mumbai 400 012. The petitioner had earlier approached the Debt Recovery Tribunal by presenting Securitization Application No.424 of 2016. The

application for interim order was also presented bearing Interim Application No.1196 of 2016 which came to be rejected by the Tribunal in view of the order passed on 6.2.2017. The petitioner has approached the Appellate Tribunal by presenting the Misc. Appeal No.46 of 2017 and interim Application No.1196 of 2016. The Misc. Appeal could not be taken up by the Tribunal for want of presentation of the proper court fee and issue raised in that regard did not reach finality. It is the contention of the petitioner that the petitioner has already deposited the requisite court fee amount and the appeal has been registered.

2. This Court while entertaining the writ petition, by an order dated 17.2.2017 directed the respondent-bank to produce the original documents for perusal of the court. Accordingly, the learned counsel for the bank has produced the original documents relating to loan proposal presented by Mrs. Minal. The documentary evidence produced by the bank as well as documents in possession of the petitioner are required to be considered by the fact finding forum. Without making any

comments in respect of the merits of the contentions raised by the petitioner, we deem it proper to leave the issues for consideration of the Appellate Tribunal. It would be appropriate for the parties to produce relevant documents before the Appellate forum for its consideration. The DRAT shall decide the Misc. Appeal presented by the petitioner on its own merits and in accordance with law. The DRAT shall decide the same as expeditiously as possible preferably within eight weeks from today.

3. In the mean time, ad interim order passed by this court on 17.2.2017 shall remain operative for the period of three weeks from today. It would be open for the petitioner to approach the appellate forum and seek order for protection of his interest.

4. In view of the above, the writ petition stands disposed off.

(A.S.GADKARI, J.)

(R.M. BORDE, J.)