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

NOTICE OF MOTION NO. 353 OF 2017
IN
ARBITRATION PETITION NO. 207 OF 2014

Kotak Mahindra Bank Ltd. .. Applicant/Intervener

In the matter between :

Karvy Financial Services Ltd. .. Petitioner
Vs.
Parshuram Karthik Iyer & Ors. .. Respondents

Mr.Omar Khaiyam Shaikh i/b Vikas Salvi and Associates for petitioner.

Dr.Birendra Saraf a/w. Mr.Nikhil Rajani i/b V. Deshpande and Co. for applicant in NMS/353/2017.

Mr.Bimal Rajasekhar for respondent No.1

Dr.M.S.Deshpande, Court Receiver a/w. Mr.Ajay B. Malvankar, Section Officer, representative of Court Receiver present

CORAM : K.R.SHRIRAM, J.
DATE : 18TH JULY, 2017

P.C.

1 Mr.Shaikh for the petitioner states that the petitioner has no objection if the issue as to whether the immovable property which is in possession of the Court Receiver, has been mortgaged to the petitioner or the applicant, be decided by the Debt Recovery Tribunal. Mr. Shaikh states that the petitioner will move the Debt Recovery Tribunal with an appropriate application. Dr.Saraf for the applicant in Notice of Motion No.353 of 2017 states that

orders have been passed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 to take possession of the immovable property and prays that the Court Receiver hands over the possession of the property to the Authorized Officer of the applicant.

2 Since the issue between the applicant and the petitioner is only as to whether the property of respondent No.6 is mortgaged to the applicant or the petitioner, I see no reason why the Court Receiver should not hand over possession to the applicant. I am saying this because it is the case of the applicant that the original titled documents/Sale Deed is deposited with the applicant and symbolic possession has been taken by the Court Receiver whereas the petitioner only has certified copy of the title document/Sale Deed.

3 The applicant not to do anything with respect to the sale of the mortgaged property for a period of three months within which period, the petitioner may move the Debt Recovery Tribunal and obtain appropriate orders. All rights and contentions of the parties are kept open.

4 The notice of motion accordingly disposed.

5 The Court Receiver is discharged so far as the property of respondent no.6 is concerned, without passing of accounts. As far as the properties of the other respondents, the Court Receiver will continue. The Court Receiver to hand over possession of property of respondent No.6 to the authorized officer of the applicant within four weeks.

6 I must hasten to add I have not expressed any opinion on the rights of the contesting parties.

(K.R. SHRIRAM, J.)