

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 539 OF 2017
IN
ARBITRATION PETITION NO. 292 OF 2016

Tata Capital Housing Finance LimitedApplicant/Petitioner

Versus

Irfan Ahmed Shariff and Ors ...Respondents

Mr. Mayur Khandeparkar I/b. MDP & Partners for the Applicant.

CORAM: G.S. KULKARNI, J.

DATED: 07th August, 2017

PC:-

1. By this chamber summons, the applicant/petitioner prays that the Court Receiver, High Court Bombay, who was appointed in pursuance of the order dated 21/04/2016 passed by this Court for taking physical possession of the mortgaged property, be discharged forthwith, without passing of accounts in respect of the mortgaged property.

2. I have Perused the affidavit in support of the chamber summons of Mrs. Gayatri Rajvanshi. Mr. Khandarparkar learned counsel for the applicant would submit that, though the averments

are made in para-4 about the petitioner being notified as the “Financial Institution” under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, however the applicants intend to seek a discharge of the Court Receiver simplicitor as the respondents have regularised the loan.

3. The chamber summons is accordingly required to be allowed as intended by the applicant/petitioner. The Court Receiver, High Court Bombay is discharged as the receiver of the mortgaged property, however the same shall be subject to the payment of the cost, expenses, charges/fees of the Court Receiver if any.

4. It is clarified that the applicant has pressed for this relief only in the present circumstances without prejudice to the rights of the applicant to take action as permissible in law in case of future defaults by the respondents.

5. The chamber summons is accordingly allowed in terms of prayer clause (a). No costs.

(G.S. Kulkarni, J.)