

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 559 OF 2017
IN
ARBITRATION PETITION NO. 1145 OF 2015

Tata Capital Housing Finance Limited Applicant/Petitioner

Versus

Rajendra Kumar Badruka and Ors ...Respondents

Mr. Nilesh Gala I/b. Law Square for the Applicant.

Mr. M.R. Mandawgade, OSD, C.R. present.

CORAM: G.S. KULKARNI, J.

DATED: 07th August, 2017

PC:-

1. Heard learned counsel for the applicant. By this chamber summons the applicant prays that the Court Receiver, High Court Bombay, who was appointed in pursuance of the order dated 09/09/2015 passed by this Court, be discharged without passing of the accounts, in respect of the mortgaged property.

2. The affidavit in support of the chamber summons of one Mrs. Gayatri Rajvanshi would state that, the applicant is now notified as “Financial Institution” under the Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI') by notification dated 05/08/2016. In pursuance thereto it is stated that, the applicant had initiated action under SARFAESI by issuance of notice under Section 13(2) dated 07/12/2016. It is stated that the court receiver had taken formal possession on the mortgaged property however, in view of this changed circumstances, and the proceedings as intended to be adopted by the applicant, discharge of the Court Receiver has become necessary.

3. I have perused the averments as made in the affidavit in support of the chamber summons. On the circumstances as noted above, the prayers of the applicant as made in the chamber summons are required to be allowed. Accordingly, the Court Receiver, High Court Bombay as appointed by the order dated 09/09/2015 as receiver of the mortgaged property is discharged, however subject to payment of the cost, charges, expenses and fees without passing of the accounts.

4. It is stated that, some amount of royalty has been received by the court receiver. The court receiver is directed to prepare a statement of accounts and disburse to the applicants the amount

after adjustment of the cost and expenses. This be done within a period of four weeks from today.

5. Chamber summons is accordingly disposed in the above terms. No costs.

(G.S. Kulkarni, J.)