

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 653 OF 2017
IN
ARBITRATION PETITION NO. 1393 OF 2014

Tata Capital Housing Finance Limited Applicant/Petitioner

Versus

M. Bhaskar and Ors ...Respondents

Mr. Mayur Khandeparkar a/w. Jay Vakil I/b. MDP & Partners
for the Petitioner.

Mr. Abhay Arora I/b. Neha D. Bhosale for the Respondent
Nos. 1 and 2.

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

CORAM: G.S. KULKARNI, J.

DATED: 07th August, 2017

PC:-

1. The petitioner by this chamber summons has prayed that the Court Receiver, High Court Bombay had taken possession of the mortgaged property described in Schedule-1 of the chamber summons in pursuance of the order dated 03/09/2015 passed in the above Arbitration Petition. This order came to be confirmed in Appeal No.113 of 2016 by an order of the Appeal Court dated 23/10/2015. The prayer in the chamber summons is that the

Court Receiver so appointed by the above order be discharged without passing of accounts in respect of the mortgaged property. This for the reason that, the petitioner has now been notified by the “Financial Institution” under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act') by notification issued by the Ministry of Finance, Government of India.

2. Mr. Khandeparkar, learned counsel for the petitioner submits that, accordingly the petitioner has resorted to a action under Section 13(2) of the SARFAESI Act by issuance of notice dated 15/03/2017. Further proceedings under Section 13(4) are required to be now adopted and the petitioner is entitled to take possession of secured assets of the borrower i.e. respondent nos. 1 and 2.

3. I have perused the affidavit in support of the chamber summons of Mrs. Sonali Desai dated 08/06/2017. In view of the averments as set out in the affidavit, the chamber summons would be required to be allowed in terms of prayer clause (b) and (c) subject to the petitioner making payment of the cost charges and

expenses of the Court Receiver to be paid by the petitioner within a period of two weeks from today.

4. The chamber summons is accordingly disposed of in the above terms. No costs.

5. Parties to act on the authenticated copy of this order.

(G.S. Kulkarni, J.)