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

WRIT PETITION (L) NO. 1881 OF 2017

1. Mrs. Shweta W/o. Vinay Tibrewal

Age about 37 yrs., of Bombay, R/at. D-1301A & D-1301-B, Lakshchandi Apartment, Gokuldham, Goregaon (E), Mumbai 400 063.

...Petitioners

Versus

1. The State of Maharashtra

2. The State Bank of India,

Stressed Assets Management Branch, Mumbai, THE ARCADE, 2nd Floor, World Trade Centre, Cuffe Parade, Mumbai – 400 005.

...Respondents

Mr. Anand Mishra, i/b Mr. Ashok M. Saraogi for the Petitioner.
Mr. Himanshu Takke, AGP, for the State – Respondent No.1
Mr. Prakash Panjabi i/b M/s. Prakash Panjabi & Co. for the Respondent No.2.
Mr. N.C. Mohanty for the Income Tax Dept., Tax Recovery Officer.

**CORAM: B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.**
DATED: 25th July 2017

J U D G M E N T :- (Per Riyaz I. Chagla J.)

1. The Petitioner by the present Petition is challenging two orders passed by the Chief Metropolitan Magistrate Court's

dated 24th October 2016 and 28th April 2017 directing Respondents Nos. 2 and 3 to take physical possession in respect of flats being Flat No. D-1301-A and D-1301-B, Lakshchandi Apts., Gokuldham, Goregaon (E), Mumbai 400 063 (**"the said flats"**). The Petitioner has also sought direction from this Court directing Respondents Nos. 2 and 3 to transfer the said flats in the name of the Petitioner's father making payment of the value of the said flats determined by Respondents Nos. 2 and 3 and / or such value as this Court may direct.

2. The Petitioner claims to be in use, occupation and possession of the said flats. The Petitioner claims that she has suffered various cruelties at the hands of her husband and in-laws. The Petitioner claims that the parents were made to pay the entire consideration for the said flats. The Petitioner's husband has deserted her and without the knowledge of the Petitioner, the Petitioner's husband created a company and the Petitioner is shown as the director. The Petitioner's husband allegedly representing the company, had availed of various credit facilities from Respondent No.2. The

Petitioner's husband had defaulted in payment of the dues by the Respondent No.2. The Petitioner claims to have taken proceedings including filing an FIR as well as two suits before the City Civil Court. The Petitioner claims that Respondents Nos. 2 and 3 had valued the said flats at Rs.2.19 Crores. The Petitioner claims to be willing to pay the value of the said flats for having the flats transferred in the name of the minor children of the Petitioner. Respondent No.2 had approached the Chief Metropolitan Magistrate Court's and obtained two orders dated 24th October 2016 and 28th April 2017 which are impugned by the present Petitioner. By the said orders, a Receiver has been appointed to take possession of the said flats and the Petitioner claims that at the instance of her husband the Petitioner will be thrown out of the said flat.

3. Shri Mishra, learned counsel for the Petitioner has sought time for depositing the sum of Rs.1 Crore in this Court as directed by order of this Court dated 18th July 2017. We had by said order, directed that the Petitioner shall not be dispossessed from the said flat on the condition that the Petitioner deposits Rs.1 Crore in this Court. We had also

recorded statement of the learned counsel for the Petitioner that the Petitioner is willing to pay the bank the amount valued by the bank toward the cost of the flat. This application was vehemently opposed by the bank on the grounds that the Petitioner's attempts are not *bonafide*. We had also directed the Respondent bank to prepare the valuation of the flat and apprise the Court about the same.

4. Shri Mishra, learned counsel for the Petitioner has once again sought time for depositing the sum of Rs.1 Cores in this Court and has made no attempts towards settling the dues of the Respondent bank.

5. We are of the considered view that the Petitioner is not interested in complying with said order of this Court and is by adopting dilatory tactics depriving the Respondent Bank from taking possession of the said flats which the Respondent bank is entitled under the orders passed by the learned Chief Metropolitan Magistrate. We are accordingly not inclined to consider the merits of this Petition, in view of the conduct of the Petitioner.

6. We accordingly dismiss the Petition. There shall be no order as to costs.

(RIYAZ I. CHAGLA J.)

(B.R. GAVAI J.)