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

WRIT PETITION No. 2498 OF 2015

Mrs. Shabana Imran Shaikh

...Petitioner

Vs.

Bank of Maharashtra and Ors.

...Respondents

Mr. Prathamesh Kamat i/b. Mr. Govind B. Solanke for the Petitioner

Mrs. Rathina Maravarman for Respondent No.1

**CORAM : R.M. BORDE &
A.S. GADKARI, JJ.**

DATE : JANUARY 04, 2017

P.C. :

1. By virtue of the order passed on 7th July, 2015, this Court has directed to stay the operation, effect and execution of the impugned judgment and order dated 3rd July, 2015 passed by the DRT -III, Mumbai as well as the Respondents have been restrained from dealing with, disposing of, alienating, auctioning, confirming the sale or

taking physical possession of the assets or inducting anyone therein or parting with possession of the said assets or any part thereof.

The interim order passed on 7th July, 2015 is operative for a period of more than five months. It appears that this Court has granted limited protection, taking into consideration the fact that the Presiding Officer of DRAT was not available at the relevant time. It is informed that the Presiding Officer for DRAT is now available and the matter can be conveniently dealt with by the DRAT. Since the issue regarding the validity of the impugned notice and the direction as regards delivery of physical possession of the premises is being agitated in this petition, the Petitioner did not prefer an appeal to the Appellate Forum.

2. In this view of the matter, instant petition can be disposed of by granting liberty to the Petitioner to tender an appeal, challenging the decision rendered by the DRT-III before the Appellate Forum within in a period of four weeks. If the Petitioner approaches the DRAT within four weeks, the Appellate Forum may deal with the appeal on merits and in accordance with the law. The Appellate Forum may take into consideration the time spent in pursuing the remedy of instant petition before this Court, while considering the application for condonation of delay that may be presented by the Petitioner. The interim order

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passed by this Court on 7th July, 2015 shall remain operative for a period of four weeks from the date of instant order. With the above directions, writ petition is disposed of.

[A.S. GADKARI, J.]

[R.M. BORDE, J.]