

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3620 OF 2018

Shubhashri w/o Nikhil Waghmare & Anr. .. Petitioners

V/s.

State Bank of India and Ors. .. Respondents

Mr.Pankaj D. Purway for the Petitioner

Mr.R.J.Singh for the Respondent no.1

Mr.A.P.Vanarase, A.G.P. for the Respondent no.2

**CORAM: K.K. TATED &
N. J. JAMADAR, JJ.**

DATED : OCTOBER 30, 2018

P.C. :

1 Heard the learned counsel for the parties.

2 By this petition under Article 226 of the Constitution of India the Petitioner challenges the order dated 22.12.2017 passed by District Magistrate, Pune in Securitisation Application No.262 of 2017 directing authority to take possession of the suit property i.e. flat no.102, 1st floor, 'C' Building, AARAV Housing Society, Survey No.28, Hissa No.1+3+4+5/4/2, 1+3+4+5/1A, 1+3+4+5/2, 1+3+4+5/3, Kothrud, Pune 411 038.

3 After arguing for some time, the learned counsel for the Petitioner submits that as per order dated 09.04.2018 and Apex Court order dated 16.05.2018, they deposited sum of Rs.25,02,000/- i.e. 50% of the amount stated in the notice under section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 in the Registry of this court. He submits that he received instruction from his client to withdraw the present Writ Petition with liberty to file appropriate proceeding before the Debts Recovery Tribunal. He submits that till that time, possession of the suit property may be protected. To that effect, he has given in writing. Same is taken on record and marked 'X' for identification.

4 At the same time, the learned counsel for the Petitioner submits that they have no objection if Respondent Bank withdraws the amount deposited by them in the Registry of this court and adjust the said amount towards the loan account. Hence, following order is passed:

a) Respondent Bank is permitted to withdraw the amount deposited by the Petitioner in the Registry of this court along with accrued interest if any, without furnishing any security and adjust the said amount towards loan account of the Petitioner and intimate the Petitioner to that effect in writing immediately thereafter with upto date account copy.

b) Petitioner is permitted to file appropriate

proceeding before the Debts Recovery Tribunal within two months from today.

c) Respondent bank is restrained from taking any coercive action against the Petitioner for taking physical possession of the suit property i.e. flat no.102, 1st floor, 'C' Building, AARAV Housing Society, Survey No.28, Hissa No.1+3+4+5/4/2, 1+3+4+5/1A, 1+3+4+5/2, 1+3+4+5/3, Kothrud, Pune 411 038 till further orders from the Debts Recovery Tribunal.

d) Petitioner is restrained by an order of injunction from creating any third party right, title and interest in respect of the suit property i.e. flat no.102, 1st floor, 'C' Building, AARAV Housing Society, Survey No.28, Hissa No.1+3+4+5/4/2, 1+3+4+5/1A, 1+3+4+5/2, 1+3+4+5/3, Kothrud, Pune 411 038.

e) Debts Recovery Tribunal to decide the Application, if any, filed by the Petitioner on its own merits without being influenced by the orders passed by this court in the present Writ Petition.

f) If the petitioner failed to file application before the DRT within two months from today, the Respondent bank is free to take appropriate action against the petitioner according to law.

g) The amount withdrawn by the Respondent bank will be subject to the outcome of the proceeding before the Debts Recovery Tribunal.

h) Writ Petition stands disposed of.

i) No order as to costs.

(N. J. JAMADAR, J)

(K.K. TATED, J.)