

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1190 OF 2018
IN
WRIT PETITION NO. 5825 OF 2017

Archana Sanjeev Prakash

.. Applicant

Versus

Canara Bank & Ors.

.. Respondents

-
- Mr. Sarwandnya S. Kadtane i/by Kuldeep Nikam for the Applicant
 - Ms. Vaishali Bhilare for Respondent Nos. 1 and 2

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

DATE : OCTOBER 12, 2018.

P.C.:

1. Heard learned counsel for the parties.
2. By this Civil Application, the applicant is seeking to join the purchaser of the suit property as respondent in Writ Petition No. 5825 of 2017.

3. On 28.9.2018, learned Advocate Mrs. K.R. Shah appeared on behalf of the proposed respondent and requested to adjourn the matter to enable her to file affidavit in reply with copy to the other side. Same is not done. Today, no one appears on behalf of the purchaser / proposed respondent.

4. Learned counsel for the applicant submits that by the Writ Petition, they are challenging the order dated 1.2.2017 passed by the learned DRAT, Mumbai in Appeal No. 129 of 2012. He submits that the main contention of the applicant was that, though the subject property was not given by way of security, the same was disposed of by the bank and hence, it is necessary to join the purchaser as party respondent in the present petition.

5. On the other hand, learned counsel for the respondent-bank vehemently opposed the present Civil Application. She submits that the applicant has not challenged the sale

certificate and / or the order passed by the authority for the said sale. Therefore, there is no question of allowing the present civil application.

6. We have heard both the advocates at length.

7. It is to be noted that though the auction purchaser appeared before this Court on 28.9.2018, he failed and neglected to file his affidavit in reply to oppose the present civil application. The main contention of the applicant is that, the respondent - bank has disposed of their property which was not secured assets in the present proceedings. Considering these facts and the submissions made by the learned counsel for the applicant and the averments made in the Civil Application, we satisfy that the applicant has made out a case for allowing this application.

8. Hence, the following order :-

a) The applicant is permitted to join Mrs. Monica

Vimal Maluka, as stated in para 12 of the application as respondent No. 13 in Writ Petition No. 5825 of 2017.

b) The amendment in Writ Petition to be carried out within two weeks from today failing which the Civil Application shall stand dismissed without further reference to the Court.

c) If amendment is carried out within stipulated period as stated herein above, the applicant to serve the amended copy of petition on the other side, as well as the added respondent, by hand deliver along with the entire proceedings and file affidavit of service to the aforesaid on or before 3.11.2018.

d). Writ Petition to appear on board for admission on 24.11.2018.

e) Civil Application is disposed of accordingly.

[N.J. JAMADAR, J.]

[K.K. TATED, J.]