

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

WRIT PETITION NO.9928 OF 2018

M/s.Accura Info Tech Pvt. Ltd. & Anr. .. Petitioners

V/s.

SREI Equipment Finance Pvt. Ltd. .. Respondent

Mr.Amrut Joshi with Mr.Akhil Kupawade i/b M/s.Manoj Harit and Co.
for the petitioners

Mr.Rafeeq Ree i/b M/s.A.G.Pandit and Associate for the respondent

**CORAM: K.K. TATED &
SANDEEP K. SHINDE, JJ.**

DATED : SEPTEMBER 04, 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 07.07.2018 passed by DRT-III, Mumbai in Securitisation Application No.176 of 2017.
- 3 When this court declined to entertain the present Writ Petition, the learned counsel for the Petitioner after taking instructions from Guarantor and Co-owner of the suit property, Simran Kaur Gogia, who is present in court makes a statement that they may be permitted to

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withdraw the present Writ Petition with liberty to file appropriate proceeding before the DRAT within two weeks from today. He further submits that during these two weeks, Respondent bank may be restrained from taking any coercive action against them in respect of mortgage assets as described in the present petition. To that effect, he has filed undertaking dated 04.09.2018. After discussion on the said undertaking, Petitioner added paragraph 3A and 3B on page 3. He submits that paragraph 3A and 3B be accepted. Instead of accepting the entire undertaking, those paragraph 3A and 3B are only accepted which read thus:

“3A. I hereby undertake to hand over the possession of the subject Mortgaged Asset within 2 weeks from today. If I do not get any protection from D.R.A.T. within the said period.

3B. I say that, in the meantime, the Respondent Bank agreed not to take any coercive step against the Mortgaged Assets for the said period of 2 weeks.”

4 The learned counsel for the Petitioner submit that co-owner Simran Kaur Gogia is present in court. She enters into the witness box. She admits the contents of the undertaking dated 04.09.2018 and also agreed that the said undertaking be accepted to the extent of paragraph 3A and 3B written in hand writing on page 3. Her undertaking is accepted. Same is taken on record and marked 'X' for identification.

5 Advocate for the Respondent bank makes a statement that for two weeks they will not take any coercive action against the Respondent in respect of mortgage assets.

6 Statement is accepted.

7 Writ Petition stands disposed of as withdrawn with liberty as prayed in undertaking.

8 No order as to costs.

(SANDEEP K. SHINDE, J.)

(K.K. TATED, J.)