

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.280 OF 2019

**GAYABAI DILIP KOLTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.Dnyaneshwar A. Bide, Advocate for the petitioner
Mr.S.S.Dande, AGP for the respondent/State

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 11.01.2019

P.C. :-

. Heard learned counsel for the petitioner.

2. By the present petition the petitioner challenges notice dated 15.09.2018 placed on record at Exh.G. Learned counsel submitted that in view of the notice dated 15.09.2018 the respondents are subjecting the petitioner to a sufferance. As such the notice be quashed and set aside. On perusal of the material placed on record what emerges is that there was loan transaction agreement arrived between the parties. The proceedings were initiated taking re-course to the Securitization Act. Interestingly, enough the petitioner had issued a legal notice to respondent No.5 on 19.07.2017 with a legal

assistance from local counsel of Ahmednagar. The petitioner herself submitted a proceeding before the District Consumer Forum at Ahmednagar. The prayers before the District Consumer Forum are firstly, directions to respondents more particularly the financial institute to issue a certificate in favour of the petitioner that the petitioner has no financial responsibilities, secondly a damages/compensation against respondents to the tune of Rs.12,00,000/- for negligence of the respondents and third prayer that respondents be restrained from approaching the petitioner and again a claim of compensation to the tune of Rs.50,000/- for subjecting the petitioner to mental harassment. This is the proceeding initiated by way of an affidavit in the matter on 27.08.2018. Notice dated 15.09.2018 is issued to one Abhijeet Dilip Chavan, Awas Finance Ltd. The notice states that notice is issued to Dilip Fakirchand Kolte. The notice further indicates that the authority by exercising the powers vest with the authority under the Securitization Act is proceeding further for the possession of the property involved in the proceedings. In the notice again it is informed that the parties attend at the place of property on

27.09.2018 at 11.00 am. We see absolutely no reason why the petitioner cannot approach to the authority who had issued notice dated 15.09.2018 submitted before the authorities. The grounds or explanations to the facts situation referred to in the notice when the petitioner was diligent enough to issue legal notice to the Finance Company on 19.07.2017 and approached the District Consumer Forum with an application running in more than three pages and prayers seeking compensation on various aspects. Even if admittedly the husband of the petitioner expired on 27.11.2016 it is not the fact situation that the petitioner was unaware of the proceedings initiated under Securitization Act. On the contrary the application submitted to the District Consumer Forum clearly shows that the petitioner refers to this proceedings and states that the finance company initiated this proceeding only to trouble the petitioner.

3. Considering these facts, we are not at all inclined to entertain the petition on the ground that the petitioner is kept in dark and the notice is issued by the authorities only to cause harassment to the petitioner when the petitioner is

well aware of the proceeding initiated under the Securitization Act and herself challenged this proceeding. Now she cannot turn back and submit before this Court taking a spacious plea that respondent authorities are acting only to cause trouble to the petitioner. The petition is clearly on assumption, presumption and unfortified unreasonable apprehension of the petitioner.

5. Thus, the petition being thoroughly merit less deserves to be dismissed at the threshold. The same is accordingly dismissed.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]