

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10157 OF 2017

Canara Bank
Mandvi Branch, Mumbai

..Petitioner

Versus

Union of India & Ors.

..Respondents

Mr. P. A. Das i/by O. A. Das & Associates, Advocate for the Petitioner.
Mr. Siddharth Samanthray i/by Mr. P. H. Jaggi, Advocate for
Respondent Nos.2 & 4.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 8th NOVEMBER, 2019

P.C.

1] Heard learned counsel for the parties.

2] The Petitioner advanced a credit facility to the 2nd Respondent. Respondent Nos.3 and 4 stood guarantors. They mortgaged Flat No.601, on the 6th Floor in G Wing, Building No.2, Kukreja Palace, CST No.195/3A and 195/3B, Vallabh Baug Lane Extension, Near Police Hockey Maidan, Garodia Nagar, Ghatkopar, (E), Mumbai-400077 and Flat No.5390, 3rd Floor, Building No.195, Dharam Bhaskar Co-operative Housing Society Ltd., Paras Building, Pant Nagar, Ghatkopar (E), Mumbai-400075.

3] In proceedings initiated under Section 13 followed by a

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measure under Section 14 of the SARFAESI Act, 2002, said Respondents made a statement before learned DRT in S. A. No.62 of 2016 filed by them that they would hand over possession of the secured asset after the mother of the Applicants is discharged post Coronary Angioplasty on 2nd June 2016. The said Applicants could not honour their commitment on account of the fact that in a suit filed by one Rakesh Shrikant Singh being Title Suit No.6 of 2016 in the Court of the Munsif Masuadi in District Patna a Receiver was appointed.

4] The Petitioner has filed an application in the said suit for being impleaded as a party with a request that the Receiver be removed and thus we do not decide the merits of the controversy raised in the Petition concerning the order passed by the Court at Patna. The Petitioner has availed an alternative remedy to have the Receiver removed by filing an appropriate application.

5] The Petition is accordingly disposed of as infructuous.

**Balaji G.
Panchal**

Digitally signed by
Balaji G. Panchal
Date: 2019.11.08
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SMT. BHARATI DANGRE, J

CHIEF JUSTICE