

Sharayu Khot.

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

WRIT PETITION (ST.) NO. 10447 OF 2019

Shri. Namaji Shinwar Madhavi & Anr. ...Petitioners

Versus

HDFC Bank Ltd. & Ors. ...Respondents

Mr. Tushar Sonawane, a/w Ms. Ranjana Humane, for the
Petitioners.

Mr. Shashank Fadia, for the Respondent-Bank.

**CORAM : A.A. SAYED &
R.I. CHAGLA, JJ.**

DATE : 5 April 2019

ORDER :

1. The Petitioners have challenged the order dated 28th March 2019 of the Presiding Officer, D.R.T. - II, Mumbai at Vashi, whereby the Misc. Application No. 10 of 2016 filed by the Petitioners in O.A. No. 234 of 2011 (disposed of on 6th March 2012) has been rejected. The impugned order dated 28th March

2019 of D.R.T. reads as follows:

“This M.A. is against the order passed in O.A. No. 234 of 2011 dt.06.03.2012 against the mortgage of the flat mentioned therein and the consequential relief. The applicant has taken out M.A. seeking certain reliefs wherein they sought recovery proceedings initiated against flat be stayed. From the transaction what has been tailored from the applicant's side Tribunal is not prima facie convinced about the contentions of the applicant. As such, Tribunal is not inclined to stay the exercise of taking physical possession of the flat scheduled for tomorrow i.e. 29.03.2019. However, exercise of taking physical possession is subject to the outcome of the M.A.

Post it to 11.06.2019 for filing reply by the respondent.”

2. We are informed that the Respondent-Bank has already taken physical possession of the secured asset on 4th April 2019.

3. In the circumstances, we record the statement of learned Counsel for the Respondent-Bank that the *status quo* shall be maintained in respect of Flat No. 303 in question until disposal of the Misc. Application No. 10 of 2016.

4. In the facts and circumstances of the case, we direct the D.R.T. to dispose of the Misc. Application No. 10 of 2016 expeditiously.

5. So far as the order dated 8th February 2019 which is also challenged in the Petition, the remedy of Petitioners before the D.R.T. is kept open.

6. The Petition is disposed of in the aforesaid directions. All contentions are kept open.

[R.I. CHAGLA, J.]

[A.A. SAYED, J.]