

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION STAMP NO.28426 OF 2019**

Darshan Construction	..Petitioner
Versus	
Punjab National Bank Housing Finance Ltd. & Ors.	..Respondents

Mr. Ismile Nasikwalla i/by Mr. Shivaji P. Yadav, Advocate for the Petitioner.

Mr. A. R. Gole a/w Ms. Dimple Tejani i/by Ms. Medha Rane, Advocate for Respondent No.1 – Bank.

Mr. Sidharth Samantaray a/w Ms. Chitrangada Singh i/by Clove Legal, Advocates for Respondent No.2.

Mr. K. S. Thorat, AGP for Respondent No.3.

**WITH
WRIT PETITION STAMP NO.28430 OF 2019**

Darshan Construction	..Petitioner
Versus	
Punjab National Bank Housing Finance Ltd. & Ors.	..Respondents

Mr. Ismile Nasikwalla i/by Mr. Shivaji P. Yadav, Advocate for the Petitioner.

Mr. A. R. Gole a/w Ms. Dimple Tejani i/by Ms. Medha Rane, Advocate for Respondent No.1 – Bank.

Mr. Sidharth Samantaray a/w Ms. Chitrangada Singh i/by Clove Legal, Advocates for Respondent Nos.2 & 3.

**CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 6th NOVEMBER, 2019**

P.C.

1] Since parties appear on advance copy of the two Writ

Petitions being served upon Respondents, we have heard learned counsel for the parties and find that both Writ Petitions can be disposed of without requiring Respondents to file a counter affidavit.

2] Petitioner was the highest bidder of the property bearing Room No.1, 1A and 2A on the entire first floor of the building known as “Haji Habib Building” situate at Gowalia Tank, Next to St. Stephen Church, Kemps Corner, Mumbai-400036. The building is situated on a plot of land bearing Plot No.155/157, Survey No.1/6000. The auction was pursuant to proceedings initiated by Punjab National Bank against the mortgagor M/s. Simply Computers Tech. The sale has been questioned by Respondent No.2 of Writ Petition Stamp No.28426 of 2019 and Respondent Nos.2 and 3 of Writ Petition Stamp No.28430 of 2019. Perusal of the S.A’s filed by the said Respondents would show that they claim tenancy rights in respect of Room Nos.2, 3 & 7 and Room Nos.4, 5 & 6. They have also raised an issue concerning the location of the rooms in respect whereof they claim tenancy rights. Vide order dated 11th February 2019 passed by the DRT status-quo has been directed to be maintained by the auction purchaser.

3] The ex-parte ad-interim stay has been extended from time to time.

4] The language of the order dated 11th February 2019 requires the auction purchaser to maintain status-quo and Sale Certificate has been directed not be registered.

5] Suffice it to state, the Respondents claim tenancy rights and if they succeed in their objections, at best the declaration would be that they are tenants under the auction purchaser. We clarify. If it is held that the rooms under the tenancy of the objectors do not comprise the property sold, this would be the end of the dispute. If it is ultimately held that the rooms or parts thereof comprise the property sold, a declaration would ensue to said effect by the Tribunal that the objectors have become tenants under the auction purchaser.

6] Since the objectors do not claim title to the property auctioned, we see no reason why the Sale Certificate should not be permitted to be registered. Of course, status-quo would require to be maintained by the auction purchaser till the objections to the sale are decided for the reason one facet of the objections concerns the identification of the property auctioned.

7] Thus, we dispose of the Petitions setting aside the injunctive order passed by the DRT-II, Mumbai limited to prohibiting the Sale Certificate to be registered.

8] The building being dilapidated, we direct the Debts Recovery Tribunal to decide the objections within one month from today.

**Balaji G.
Panchal**

Digitally signed by
Balaji G. Panchal
Date: 2019.11.06
17:29:20 +0530

SMT. BHARATI DANGRE, J

CHIEF JUSTICE