

Sharayu Khot.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 715 OF 2019

Shymsundar Jangid & Anr.

...Petitioners

Versus

LIC Housing Finance Limited & Anr.

...Respondents

Mr. Pradeep Sancheti, Senior Counsel, with Mr. Karan Bhosale, Mr. Harish Pandya, Mr. Rajendra Kookada, i/by Kookada & Associates, for the Petitioners.

Mr. B.K. Barve, a/w Mr. Sandeep Barve, Ms. Sheetal Tanpure, Mr. Santosh Wagh, i/by B.K. Barve & Co., for the Respondent No. 1.

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

DATE : 4 March 2019

ORDER :

1. The impugned order of the D.R.T. is dated 2nd

March 2019. The Petitioners have a remedy before the D.R.A.T. to challenge this order. It is however pointed out by the learned Senior Counsel that the impugned order is so far not made available. We are informed that the possession of the secured assets i.e. Flat Nos. 1401, 1402A, 1402B, Polaris, Flat No. 501/4, Shrushti Complex, Hiranandani Estate, Ghodbunder Road, Thane (W) is to be taken tomorrow i.e. 5th March 2019.

2. In the circumstances, after hearing the learned Senior Counsel for the Petitioners and learned Counsel for the Respondents, in the interest of justice, we pass the following order :-

- (i) Conditional upon the Petitioner No. 1 filing an Undertaking before this Court during the course of the day that a sum of Rs. 10,00,000/- (Rupees Ten Lakh only) towards the outstanding dues and further sum of Rs. 25,000/- (Rupees Twenty Five Thousand only)

towards costs, shall be paid to the Respondent-Bank by 6th March 2019 the Respondent-Bank shall defer taking possession of the secured assets which is scheduled to be taken on tomorrow i.e. 5th March 2019 for a period of 10 days. We clarify that we have imposed costs since we find that the Petitioners had approached the D.R.T. at the eleventh hour.

- (ii) It will be open for the Petitioners to file Application/Appeal before the Tribunal as permissible in law.
- (iii) The Petition to stand disposed of in the aforesaid terms. All contentions are kept open.
- (iv) We make it clear that we have not gone into the merits of the matter and in the event, the Petitioners file Application/Appeal, the Tribunal

would be free to pass orders as it deems appropriate without being influenced by this order.

- (v) In the event, the Undertaking is not filed and/or the amounts as directed are not paid and/or if the Petitioners fail to secure protective orders from the Tribunal within 10 days, the Respondent-Bank would be free to take further steps.

[RIYAZ I. CHAGLA J.]

[A.A. SAYED, J.]