

WRIT PETITION (L) NO.2185 OF 2019

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...Petitioner

v/s.

Corporation Bank

...Respondent

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Mr. Atul V. Singh i/b AVS Legal for the Petitioner.

Mr.Prakash Shinde i/b MDP & Partners for the Respondent.

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CORAM : A.A. SAYED &

PRAKASH D. NAIK, JJ.

DATED : 25 JULY 2019

P.C.:

The Petitioner is challenging the order dated 19 July 2019 passed in I.A.No.594 of 2019 in S.A.No.89 of 2019. The Petitioner has a remedy of challenging the impugned order before the DRAT. We are, however, informed that the Chairperson of the DRAT is presently on leave.

2. Learned Counsel for the Petitioner has tendered an Undertaking.

Paragraph 3 whereof reads as follows:

“3. It is hereby unconditionally and irrevocably undertaken, by and on behalf of the Petitioner and the undersigned, before this Hon’ble Court that the Petitioner (acting through the undersigned) shall hand over vacant and peaceful possession of the office premises

belonging to the Petitioner admeasuring 4225.22 sq.ft. or thereabout located at Ground Floor, Joshi Chamber, 66B, Ahmedabad Street, Carnac Bunder, Mumbai 400 009, to the Authorized Officer of Respondent i.e. Mr.Mahesh Ramesh Agarwal on the expiry of a period of a period of three weeks from today i.e. on 16th August 2019 at 12 noon or such other time as may be designated by Mr.Mahesh Ramesh Agarwal; unless the Hon'ble Debts Recovery Appellate Tribunal, in its considered opinion, grants any protective orders to the Petitioner restraining the Respondent herein from taking physical possession of the aforesaid office premises within the aforesaid period of 3 weeks from today i.e. on or before 15th August 2019."

3. Inasmuch as the Petitioner is desirous of preferring an Appeal before the DRAT, we accept the Undertaking and direct the Respondent-Bank to defer taking possession of the secured asset viz. Office premises in the building known as "Joshi Chambers", 66-B, Ahmedabad Street, Mumbai- 400 009.

4. We make it clear that the Petition is pressed only insofar as the property being the aforementioned office premises at 'Joshi Chambers' and the Respondent-Bank would be free to take possession of other secured assets, which are scheduled to be taken tomorrow i.e. 26 July 2019.

5. In the event the Petitioner does not comply with the Undertaking, the concerned Director/s shall also be liable for action under the Contempt of Courts Act. Liberty to apply to the Respondent-Bank, in case of non-compliance of Undertaking.

6. The Petition to stand disposed of in the aforesaid terms.

(PRAKASH D. NAIK,J.)

(A.A.SAYED, J.)