

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

WRIT PETITION (L) NO.3142 OF 2019

Sonika Anilkumar Patel

..Petitioner

Versus

Housing Development Finance Corporation Ltd.

..Respondent

Mr. Sudipto Banerjee a/w Ms. Valentisna Sampson i/by DKS Associates, Advocate for the Petitioner.

Mr. Ramakant Yadav i/by RHY Juris Law, Advocate for the Respondent.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 7th NOVEMBER, 2019

P.C.

1] It may be hard case, but equity can only step in where law permits.

2] The Petitioner and her husband are co-borrowers from the Respondent. Loans in sum of ₹ 2,84,675/- and ₹ 93,00,000/- were availed of in the month of May 2017. The loan amount with interest was repayable in equated monthly installments. The Petitioner and her husband paid EMIs till June 2018 but could not pay further equated monthly installments on account of the fact that Petitioner's husband got involved in criminal proceedings in Dubai and is not able to return back to India on account of orders passed by the Court of competent jurisdiction in Dubai. The husband is without any

employment and is not earning a penny. The Petitioner's husband has been rendered Councillor access in the State of Dubai.

3] Learned counsel for the Petitioner states that the Writ Petition is a mercy plea to this Court praying that directions be issued to the Respondent Bank not to take possession of the secured asset being Flat No.403, A Wing, 4th Floor, Sethia Seaview, Motilal Nagar, Goregaon (West), Mumbai. It is prayed to stay the order obtained by the Respondent from the Chief Metropolitan Magistrate, Mumbai under Section 14 of the SARFAESI Act, 2002.

4] Howsoever hard it may be upon the Petitioner, but we regret our inability to come to the aid of the Petitioner for the reasons EMIs have not been paid for over one year and five months as of today. The Bank gave latitude to the Petitioner and her husband to clear the EMIs but in view of the fact that Petitioner is a housewife and her husband is without employment they could not avail the benefit of the latitude granted by the Finance Corporation.

5] The Petition is dismissed.

Balaji G.
Panchal

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

CHIEF JUSTICE