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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 622 of 2019 (O&M)

Date of Decision: 24.07.2019

BANK OF MAHARASHTRA

..... Petitioner

V/s.

**THE DISTRICT MAGISTRATE, OFFICE OF THE DEPUTY
COMMISSIONER, ROHTAK AND OTHERS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.
HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. J.S. Bagga, Advocate,
for the petitioner.

Mr. Ashwani Bakshi, Advocate,
for the applicant (in CM Nos. 3317 and 7457 CWP of 2019)

Mr. P. P. Chahar, DAG, Haryana.

RAKESH KUMAR JAIN, J. (Oral)

CM-3317-CWP-2019

This application is filed under Order 1 Rule 10 of the CPC by the applicant-Geeta Wife of Jai Bhagwan Saini for impleading her as respondent No. 4.

Learned counsel for the applicant has submitted that the applicant is in possession of the mortgaged property which has two portions i.e. a shop and a residence above it. It is submitted that she had strained relations with her husband/mortgager. She had filed a complaint under the Protection of Women from Domestic Violence Act, 2005 in which the husband/mortgager has suffered a statement on 27.05.2019 that he would neither sell the shared household nor dispossess the applicant from the property in question. It is further submitted that the applicant had also filed a suit for permanent injunction against the husband/mortgager as he was trying to usurp the property forcibly which has been decreed on 23.01.2019,

restraining the mortgager/husband from alienating the said property and he was also restrained from ousting the applicant forcibly from the said property.

It is not denied that the suit property was mortgaged by the husband of the applicant in the year 2013. It is, however, submitted that it was the ploy on the part of the mortgager-husband to mortgage the property in question and ultimately loosing its title to the Bank, for the purpose of harassing the applicant and for dispossessing her from the said house.

On the other hand, learned counsel for the non-applicant/petitioner has submitted that the husband/mortgager had suffered statement only neither to sell the shared household nor to dispossess the applicant from the property in question but he had not suffered the statement that he will not mortgage the same.

It is further submitted that the neither the husband/mortgagor is dispossessing the applicant from the same as the process of dispossessing the applicant is carried out by the Bank/secured creditor. It is, thus, submitted that the applicant-wife is not a necessary party in the main petition.

We have heard learned counsel for the parties and after examining the record, are of the considered opinion that there is no force in this application filed by the applicant because the action is sought to be taken by the Bank in view of the fact that the mortgagor/husband has been unable to discharge the debts of Bank. It is also submitted that the statement was suffered by the mortgagor/husband that he would not sell the mortgaged property or dispossess the applicant which of course he is not doing but ultimately it is to be sold by the Bank in order to realise the debts of the Bank.

In view of the above, the present application is dismissed.

CM-7457-CWP-2019

This application is filed for placing on record the draft/proposed reply to the writ petition and for seeking exemption from filing the true typed copies of the annexures.

Since, we have dismissed the application of impleadment of the applicant in the writ petition, therefore, the present application has become infructuous and the same is hereby dismissed as such.

CWP No. 622 of 2019 (O&M)

Learned State counsel has stated at the bar that the order passed by the District Magistrate on 22.11.2017 shall be complied with within 15 days. In view thereof, present petition has become infructuous and same is hereby disposed of as such.

[RAKESH KUMAR JAIN]
JUDGE

July 24, 2019
Ess Kay

[AVNEESH JHINGAN]
JUDGE

Whether speaking / reasoned :	Yes	/	No
Whether Reportable :	Yes	/	No