

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION ST NO. 170 OF 2020

M/s.Darshan Construction through
Partner Dineshkumar Jain .. Petitioner
Versus
Punjab National Bank Housing
Finance Ltd, through Authorized
Officer and others .. Respondents

...

Mr. Ismail Nasikwala with Priya P. I/b S.P. Yadav for the
petitioner.
Mr.Y.S. Khochare, AGP for the State.
Mr. Minesh K. Shah I/b M.S. Laxmi Kule for respondent no.2.

CORAM: PRADEEP NANDRAJOG, C.J.
AND BHARATI DANGRE, J.

DATED : 7th JANUARY, 2020.

P.C:-

1 Writ Petition has been filed challenging the order
dated 2nd January 2020 passed by DRT-II in S.A.No.475 of 2019.
filed by one Smita Pandey. The order reads as under :

*“I.A. No.6 of 2020 along with supporting affidavit
filed by the advocate preparing for the applicant.
Vakalatnama filed by Advocate appearing for the
respondent No.3.*

Reply to S.A. filed by advocate appearing for the respondent no.4.

Vakalatnama filed by advocate appearing for the respondent no.1.

The basic issue appears to be that the applicant apprehends that the sale by the respondent nos.1 and 2 is not in accordance with the mortgage deed dt.13.04.2016 as to extent of property sold under SARFAESI Act (Schedule-II)

Tribunal asked the advocate for respondent nos.1 & 2 as to whether he can file an affidavit that the sale is in accordance with the mortgage deed as regards the property sold, he is agreed to file an affidavit to that effect.

Accordingly, the matter is adjourned to 7th January 2020 for filing affidavit by the respondent nos.1 & 2.

2 We find no adjudication returned in the impugned order. The impugned order does not affect any right of the petitioner.

3 Learned counsel for the petitioner urges that S.A. No.475 of 2019 filed by Smita Pandey is barred by limitation. If this be so, the petitioner can argue before the Debt Recovery Tribunal to decide the issue whether the Appeal filed by Smita Pandey is within limitation or not. The petitioner can additionally call upon the Tribunal to decide the issue of limitation as a preliminary issue.

4 Thus, we find no merit in the Writ Petition qua the
challenge to the order dated 2nd January 2020.

5 Petition is dismissed.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE