

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION ST NO. 2507 OF 2020

M/s.Sun Hospitality and Service
Apartment Pvt.Ltd

.. Petitioner

Versus

Bank of Baroda Ltd & ors

.. Respondents

...

Mr. Sumit S. Kothari for the petitioner.

Mr.A.R. Bamne for respondent No.1.

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

DATED : 10th FEBRUARY, 2020.

P.C:-

1 On the issue as to what is the identity of the mortgaged property contemplated by the learned DRT-II, Mumbai vide its order dated 24th January 2020, we find complete vagueness. The order reads as under :-

“Both sides counsels heard at length on 21.01.2020 and on 22.01.2020 and on 23.01.2020. Ample opportunity has been given to the applicant for settling the matter with the respondent bank by way OTS. But, the applicant was again and again submitting that they are ready to pay Rs.2 Crores against the outstanding amount to be paid to the respondent bank but subject to condition that respondent

bank will provide NOC for certain properties which are described in the submissions made by both the counsels in writing.

After going through the submission made by both the parties, I am of the opinion that the applicant is adamant and persisting for settling the issue only if the respondent bank is providing them NOC.

It is hereby directed that the respondent Bank is at liberty to take lawful possession by adhering to the system and procedure and law applicable for the properties which are mortgaged with the respondent bank but out of that properties for which NOC have been issued shall be excluded from this compliance. The compliance is to be intimated to the Tribunal by way of filing an affidavit in the subject matter.

Post the matter to 6th February 2020 for filing the report in this regard.”

2 The penultimate paragraph of the order creates a problem inasmuch as it permits the first respondent Bank to sell the mortgage properties but after excluding the ones for which the Bank issued No Objection Certificate to the borrower permitting sale of the villas.

3 The petitioner has challenged the said order by filing an Appeal before the learned DRAT and has been constrained to approach this Court on account of the Presiding Officer of the DRAT not holding sitting.

4 Under the circumstances, we dispose of the Writ Petition staying operation of the order dated 24th January 2020 passed by DRT, Mumbai till the Presiding Officer of the DRAT takes up the Appeal filed by the petitioner laying a challenge to the said order.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE