

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 223 OF 2021
IN
NOTICE OF MOTION NO. 374 OF 2021
IN
S.C. SUIT NO. 2279 OF 2012
ALONGWITH
INTERIM APPLICATION NO. 2087 OF 2021**

PRAMILA SUMANSINGH THAKUR } APPELLANT

V/S.

**NEW INDIA CO-OPERATIVE
BANK LTD. } RESPONDENT**

*** * * ***

**Mr. Mihir Suhas Raje i/by. Ms. Sharon Patole,
Advocate for the appellant.**

**Mr. Vatsal Shah i/by. MMK Law Associates, Advocate
for the respondent.**

**CORAM : SANDEEP K. SHINDE, J.
(through Video Conference)**

Tuesday, 11th January, 2022.

P.C. :

1. Heard learned Counsel for the parties.
2. Appellant-plaintiffs are seeking directions
to the defendant-Bank by way of mandatory

injunction to register the Deed of Assignment dated 23rd August, 2007 and appoint an Officer for the same.

3. Plaintiff's case in brief is that, vide deed of assignment dated 23rd August, 2007, New India Corporation Bank Ltd. ("Bank" for short) assigned, to her, actionable claim in the sum of Rs.22,32,337/- recoverable by the Bank from its borrowers and sureties. Accordingly, the Bank assigned actionable claim and agreed to get the same registered with the Sub-Registrar. Clause-7 of the assignment deed , reads as under :

"7. The Bank agrees to bear any expenses required to be incurred therefor for executing this Agreement and the professional fees thereof, Stamp Duty, Registration Charges, if any and any expenses required incidental thereto, including professional cost shall be paid and borne by the Bank."

4. Indisputably, vide letter dated 24th August, 2007 the Bank handed over possession of the properties to the plaintiffs which were mortgaged by borrowers to the Bank for securing the loan sanctioned to them. In spite of this fact, the Bank declined to register the Deed of Assignment. It gave rise to cause of action and therefore suit was instituted in the City Civil Court at Bombay. Pending

suit, the learned Judge declined interim relief to the plaintiffs, reason being that, interim relief would amount to drawing of decree.

5. Counsel for the parties, inform the Court that trial has reached the stage of leading evidence and both would lead evidence of two witnesses each. In consideration of the peculiar facts of the case, in my view, it would be expedient in the interest of parties to request the trial Court to conclude the trial at the earliest. Accordingly, the Appeal is disposed of with directions to the trial Court to conclude the trial in S.C. Suit No.2279 of 2012, preferably before 30th June, 2022.

6. It is made clear that, this Court has not heard the parties on merits.

7. With disposal of the Appeal from Order, Interim Application No. 2087/2021 does not survive. The same is accordingly disposed of.

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SHAILESH
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(SANDEEP K. SHINDE, J.)