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

WRIT PETITION NO. 9164 OF 2022

Mukesh Rasiklal Jariwala

....Petitioner

V/s.

State Bank of India and Ors.

...Respondents

Mr. Charles D'souza a/w Mr. V.N. Ajikumar i/b V.N. Ajikumar for Petitioner.

Mr. Shashikant Gaikwad i/b SSP Legal for Respondent Nos. 1 and 2.

Ms. Chinmayee Ghag for Respondent No.3.

Mr. Vineet Mittal, Chief Manager, State Bank of India present.

CORAM : K.R. SHRIRAM &

A.S. DOCTOR, JJ.

DATED : 3rd AUGUST 2022

P.C. :

1. In this petition, petitioner has raised a grievance that notwithstanding repayment of the entire loan amount, Respondent Nos.1 and 2 have not returned the original title deeds of subject mortgaged property alongwith no dues certificate and other secured documents and also not handed over peaceful and vacant possession of the mortgaged property.

2. When the petition was called out in the pre-lunch session, Mr.Gaikwad requested the matter be stood over to post-lunch session so that he could take instructions. Accordingly, the matter was stood over.

3. Post-lunch, parties have tendered Minutes dated 3rd August 2022. The Minutes signed by petitioner, authorised representative of

Respondent Nos. 1 and 2 and their respective advocates is taken on record and marked "X" for identification.

4. For ease of reference, the Minutes is scanned and reproduced herein below :-

Coram : Hon'ble Shri Justice K. R. Shriram
& Hon'ble Shri Justice A. S. Desai

Date: 03/08/2022

BEFORE THE HON'BLE HIGH COURT
OF BOMBAY (A.S.)

WRIT PETITION No. 9164/2022

MUKESH RASHIKL JAINWALA .. Petitioner
v/s
State Bank of India & Ors .. Respondents

MINUTES
MAY IT PLEASE YOUR HONOUR :

1. The petitioner and Respondent No. 1 Bank have mutually agreed that:-

a) The Original Title deeds of the mortgaged Property is Plot No. 7D, 73/7, MIDC, TTC, Turbe, Navimumbai is being handed over to Petitioner today in Court. ("Said Property")

b) Respondent No. 1 Bank will handover Peaceful and vacant Possession of Said Property to Petitioner on 4.8.22 at 12 noon, by preparing inventory and Panchnama.

c) No-due Certificate will be issued to Petitioner along with necessary release/discharge letter to Petitioner and its Guarantors on 4.8.2022.

Signatures
(Mukesh Jainwala)

inset (Mukesh Jainwala)
Vinit Mittal
Chief Manager
SBI
PF: 5113657



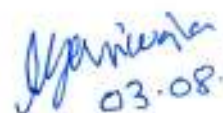
- 2 -

- d) Recovery Proceeding No. 263 of 2005
Pending before Recovery officer,
DRT. III Mumbai and ~~thereby~~ closed
thereby lifting warrant of attachment
of the said property.

In view of the aforesaid terms the
above writ Petition and RP NO. 263/2005
be disposed off and/closed.

The Parties will be acted, based on
these terms and marked as 'X' for its identification
of this Hon'ble Court.


Advocate for Petitioner

(1) 
03.08.2022
(Mukesh R. Jaiswal)
(Petitioner)


Advocate for R1 & 2
Date: 03/08/2022.


3/8/22
(4) (State Bank of India)
- R.1 & 2
Vineet Mittal
Chief Manager
SBI
PF: 5113687



5. As regards the recovery proceeding mentioned therein, both counsel requests the court that due to large pendency of matters before Respondent No. 3 – Recovery Officer, this court be pleased to dispose the said recovery proceeding.

6. Accordingly, Recovery Proceeding No. 263 of 2005 pending before the Recovery Officer, DRT – III is hereby closed and disposed. A copy of this order shall be filed in the DRT – III Registry who shall note closure of the said proceeding.

7. Order in terms of the Minutes.

8. All statements accepted as an undertaking to this court. All undertakings accepted.

9. At this stage, Mr. D'souza requests the court to grant some cost. Mr. Gaikwad is requesting not to grant any cost. In our view, the request of Mr. D'souza is justified because petitioner would not have come to this court but for the inaction on the part of Respondent Nos. 1 and 2. What Respondent Nos. 1 and 2 did today like handing over the title deeds, vacant possession and issuing no due certificate, could have been done earlier without driving petitioner to approach this court. By its act/omission, respondent has also burdened the already over burdened court and forced petitioner to incur legal costs.

10. In the circumstances, Respondent No.1 – State Bank of India is directed to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) as cost to petitioner and this amount shall be paid within one month from today by way of cheque or pay order or to the credit of the advocate on record for petitioner.

11. Petition disposed.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)