

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

WRIT PETITION NO.10403 OF 2022

Mrs. Archana Suryakant Bhosale

: Petitioner

versus

Union Bank of India and anr.

: Respondents

Mr. Akshay Kapadia for Petitioner.

Mr. Deepak Saxena a/w Ms. Devika Shingrani for Respondent No.1.

Mr. Vijay Kurla a/w Mr. Samkit Shah and Mr. Amey Pilay for Respondent No.2.

**CORAM : K. R. SHRIRAM &
A. S. DOCTOR, JJ.**

DATE : 19th OCTOBER 2022

P.C.

1 Petitioner, amongst various prayers, is seeking quashing and setting aside e-auction notice dated 30th July 2022 issued by Respondent No.1 – Bank.

2 Petitioner and Respondent No.2 are married to each other and now are having some matrimonial disputes. Allegations and counter allegations have been made. Admittedly Petitioner and Respondent No.2 are the co-borrowers with Respondent No.1.

3 Mr. Kapadia for Petitioner states that it was the responsibility of Respondent No.2 to pay EMI to the bank, but Respondent No.2 has not been paying and there are orders passed by Judicial Magistrate First Class (for short JMFC), Belapur against Respondent No.2 under the provisions of Domestic Violence Act. Mr. Kapadia states, there is an execution application filed before JMFC, Belapur. Mr. Kapadia states that Respondent No.2 is contesting the execution application.

4 Mr. Kapadia states that if prayer clause (d), i.e., directions to JMFC Belapur to decide the execution application in a time bound manner, is passed, so that Bank's EMI will also get paid, Petitioner's interest for the moment, will be served.

5 Mr. Kurle for Respondent No.2 states he will have no objection if the JMFC Belapur disposes the execution application and Respondent No.2 will raise all contentions before the JMFC, Belapur.

6 Mr.Saxena for Respondent No.1 Bank states that perhaps the bank will have to re-auction the flat and therefore the Court may direct the JMFC, Belapur to dispose of the execution application by 30th November 2022.

7 In the circumstances, without making any observations on the merits of the matter and keeping open all rights and contentions of parties, Petition is disposed with directions to the JMFC, Belapur to dispose the execution application in C.M.A. 277 of 2021 as expeditiously as possible and preferably by 30th November 2022. No order as to costs.

(A. S. DOCTOR, J.)

(K. R. SHRIRAM, J.)