

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11907 OF 2022**

Raja Nasibullah Shaikh

.....Petitioner

Vs.

Special Recovery & Sales Officer & Ors.

.....Respondents

Mr. Sagar P. Batavia for petitioner.

Mr. S.D. Dumbre for respondent nos.1 and 2.

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

DATED : 3rd OCTOBER 2022

P.C. :

1 At the outset Mr. Dumbre undertakes to file Vakalatnama on behalf of respondent nos.1 and 2. Mr. Dumbre strongly opposed granting of any relief. At the same time, Mr. Batavia, counsel for petitioner stated that only on Friday, i.e., 30th September 2022, petitioner came to know about the physical possession proposed to be taken today and he has moved for urgent relief. Mr. Batavia requested that some interim protection be given atleast till 6th October 2022 by which time he will file an application on behalf of petitioner before the Debt Recovery Tribunal (DRT) under Section 17 of the SARFAESI Act. Mr. Dumbre stated that more than Rs.30,00,000/- is owed to respondent no.2 and, therefore, the Court should not stop respondent nos.1 and 2 from taking physical possession today.

2 By consent, the following order is passed :

(a) respondent no.1/respondent no.2 shall take physical possession of the mortgaged premises today;

(b) petitioner will not be physically evicted or his belongings removed from the said mortgaged premises today;

(c) petitioner will without any objection hand over physical possession but need not vacate the premises;

(d) petitioner shall file an application under Section 17 of the SARFAESI Act before the concerned DRT and apply for urgent reliefs;

(e) if by 6th October 2022 petitioner does not get any relief, petitioner's undertaking is accepted that he shall vacate the premises physically alongwith relatives and other residing with him and belongings on 7th October 2022.

3 In view of the above, Mr. Batavia seeks leave to withdraw the petition.

4 Petition dismissed as withdrawn.

(A. S. DOCTOR, J.)

(K. R. SHRIRAM, J.)