

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

WRIT PETITION NO. 2584 OF 2024

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Shaikh Shabana Abdul Hamid
Age : about 54 years, Occ : Tutor,
R/at : 101, Asmita Malhar CHS Ltd.,
Near Asmita Club, Nayanagar Mira Road (E), .. Petitioner
Thane – 401107

Versus

1. The Manager,
ICICI Bank,
Office No.201-B, 2nd Floor, Road No.01,
Plot No.B3, Wifi IT Park,
Waghle Industrial Estate, Thane (W)

2. Shaikh Afsar Bahadur,
Flat No.502, Building No.46,
Floor No.fifth, Building Name : Rekha Retreat CHS,
Block Sector, Shantipark, Mira Road (E), ...Respondents
Thane-401107.

Ms.Rehana Begum, Advocate for Petitioner.

**CORAM : B.P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : FEBRUARY 23, 2024.

P C :

1. Not on Board. Upon mentioning, taken on Production Board.

2. The above Writ Petition is filed seeking the following reliefs :

(a) That this Honourable Court may be pleased to pass appropriate writ, order, direction, directing Respondent Nos.1, 2 to refrain from harassing and dispossess her from the premises Flat bearing No. 506, 2C Wing, 2nd Floor, Building Name : J.P. North, Stella, Vinay Nagar of Kashmirira Road East, situated at 24/3, (PT), at village Ghodbander, Near GCC Club, Mira Bhyander, Dist-Thane.

(b) That this Honourable Court may be pleased to direct the Respondent No.1 not to take forceful physical possession unless until the amount of Rs.15,00,000/- is refunded by Respondent No.2.

3. The above reliefs are sought because a possession notice has been issued seeking to take physical possession of the secured asset, being Flat No.506, 2C Wing, 2nd Floor, J.P. North Stella, Vinay Nagar of Kashmirira Road, East, situated at 24/3 (PT) at Village Ghodbander, Near GCC Club, Mira Bhyander, Dist. Thane. We find that for the reliefs sought for in the above Petition, the Petitioner has an equally efficacious alternate remedy under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. When we put this to the learned counsel appearing on behalf of the Petitioner, she fairly submitted that she would like to withdraw the above Writ Petition and avail off the alternate remedy. In these circumstances, the above Writ Petition is dismissed as withdrawn with liberty as prayed.

4. We may hasten to add that we have not opined on the merits of the matter one way or the other, and which shall be decided by the Debt Recovery Tribunal, if approached by the Petitioner.

5. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B.P. COLABAWALLA, J.]