

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10824 OF 2018

Surekha Gaikwad

.. Petitioner

Versus

The Citizen Credit Co-operative Bank Ltd. & Ors.

.. Respondents

Mr. Nirav Doshi i/b. S. K. Legal Associates *for the Petitioner.*

Mr. Ashish Kanojia a/w Sachin Kanse *for Respondent No.1.*

Mr. Abhishek Deshmukh *for Respondent No.4.*

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

DATE : JANUARY 09, 2024

P. C.

1. The above Writ Petition challenges the order passed by the Debt Recovery Appellate Tribunal (for short “**DRAT**”) dated 18th September, 2018. By the impugned order, the DRAT dismissed the Appeal filed by the Petitioner. Originally, the Petitioner had filed a Securitization Application before the Debt Recovery Tribunal-I (for short “**DRT-I**”), Mumbai being S.A. No. 78 of 2018 challenging the measures taken by the 1st Respondent Bank against the property of the Petitioner. In the said Securitization Application, the Petitioner filed Interim Application No. 516 of 2018 seeking urgent interim reliefs that

was dismissed by order dated 6th July, 2018. It was this order of the DRT which was challenged before the DRAT and which was also dismissed.

2. When this Writ Petition had initially come up on 25th September, 2018, an interim order was passed that until further orders, the Respondent-Bank is restrained from taking any coercive action against the Petitioner in respect of the suit property, namely, Flat No. 1301, 13th Floor, Rupji Castle CHSL, City Survey No. 150, G. D. Ambedkar Marg, Bhoiwada Naka, Parel, Mumbai 400012. Thereafter, on 17th January, 2020, rule was issued and the interim order dated 25th September, 2018 was continued till the disposal of the above Writ Petition. After all this, it appears that the Securitization Application filed by the Petitioner was dismissed for default. Therefore, the matter was moved before us by the Respondent-Bank to contend that the above Writ Petition has become infructuous because what was challenged in the above Writ Petition are only the interim orders.

3. Today when the matter is called out, we are informed that the Securitization Application filed by the Petitioner, namely, S.A. No. 78 of 2018 has been restored to file and will be heard on merits. In this light of the matter, the Petitioner as well as the Respondent-Bank agreed that the above Writ Petition can be disposed of by directing the DRT-I, Mumbai to dispose of the above Securitization Application as expeditiously as possible, and in the

meanwhile, the interim order dated 25th September, 2018 can be continued till the disposal of the said Securitization Application.

4. In view of the aforesaid consensus between the parties, we dispose of the above Writ Petition by directing the DRT-I, Mumbai to hear and decide S.A. No. 78 of 2018 filed by the Petitioner as expeditiously as possible, and in any event, within a period of four months from today.

5. Pending the hearing and final disposal of the Securitization Application, the Respondent-Bank shall not take any coercive action against the Petitioner in respect of the suit property, namely, Flat No. 1301, 13th Floor, Rupji Castle CHSL, City Survey No. 150, G. D. Ambedkar Marg, Bhoiwada Naka, Parel, Mumbai 400012.

6. Rule made absolute in the aforesaid terms and the Writ Petition is disposed of in terms thereof. No order as to costs.

7. 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.]