

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

WRIT PETITION NO.12289 OF 2024

Ali Agha Namazi,	]	
R/of Handewadi, Pune and Grant Road, Mumbai	]	.. Petitioner
<i>Versus</i>		
1. State of Maharashtra,	]	
Through Office of the Government Pleader.	]	
2. Bombay Mercantile Co-operative Bank Ltd.,	]	
Mohd. Ali Road, Mumbai.	]	
3. Hanniyeh Ali Namazi,	]	
R/of Grant Road, Mumbai.	]	
4. Zehra Ali Namazi,	]	
R/of Grant Road, Mumbai.	]	
5. Ahmad Agha Namazi,	]	
R/of Jacob Circle, Mumbai.	]	.. Respondents

Mr. Sanjay Anabhawane with Ms. Reshma Nandilath, Advocates for the Petitioner.

Ms. K.N. Solunke, Assistant Government Pleader for Respondent No.1- State of Maharashtra.

Mr. T.N. Tripathi, Advocate for Respondent No.2.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 2ND SEPTEMBER, 2024.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. Rule. Rule made returnable forthwith. Ms. K.N. Solunke, the learned Assistant Government Pleader waives notice for respondent no.1 and Mr. T.N. Tripathi, learned counsel waives notice for respondent no.2. Service on respondent nos.3 to 5 is dispensed with.

2. The petitioner has preferred Securitization Application (D) No.971 of 2023 before the Debts Recovery Tribunal, Pune. In the said proceedings, interim relief was sought seeking to restrain the 2nd respondent – Bank from taking physical possession of the subject property. On 16th May 2023, the learned Presiding Officer passed an interim order below Interim Application No.1094 of 2023 restraining the Bank from taking possession subject to the petitioner depositing 15% of the amount mentioned in the Demand Notice. That order was complied by the petitioner. The Bank however approached the Debts Recovery Appellate Tribunal for challenging the said order by filing Miscellaneous Appeal No.107 of 2023. The Bank sought interim relief in the said proceedings by filing Interim Application No.576 of 2023 and on 7th August 2024, the following order was passed :-

*“There shall be an interim stay about the
operation of the impugned order.
List on 24.09.2024 for hearing.”*

. Being aggrieved, the petitioner has challenged the aforesaid order.

3. Having heard the learned counsel for the parties, we find that no reasons whatsoever have been indicated by the Debts Recovery Appellate Tribunal for staying the order dated 16th May 2023 passed by the Debts Recovery Tribunal. Undisputedly, all the conditions imposed by the Debts

Recovery Tribunal have been complied with by the petitioner. On a reading of the impugned order, it cannot gathered as to what reason weighed with the Debts Recovery Appellate Tribunal in granting an interim stay. On the ground that the same is an unreasoned order which would result in dispossession of the petitioner, a case for interference has been made out.

4. At this stage, the learned counsel for the Bank submits that the proceedings before the Debts Recovery Tribunal in Securitization Application (D) No.971 of 2023 could be expedited so as to ensure that the proceedings are finally decided. The learned counsel for the Bank further submits that within a period of two weeks from today, written statement would be filed in the said proceedings.

5. We find that by directing the Debts Recovery Tribunal to decide the said proceedings, the same would be in the interest of both parties. In that view of the matter, the following order is passed :-

(a). The order dated 7th August 2024 passed by the Debts Recovery Appellate Tribunal in Interim Application No.576 of 2023 in Miscellaneous Appeal No.107 of 2023 is quashed and set aside on the ground that it is an unreasoned order.

- (b) The proceedings in Securitization Application (D) No.971 of 2023 are expedited.
- (c) The 2nd respondent-Bank to file written statement within a period of two weeks from today. Rejoinder, if any, be filed within a further period of three weeks.
- (d) Accordingly, it is directed that within a period of three months from filing of the written statement, Securitization Application (D) No.971 of 2023 shall be decided on its own merits and in accordance with law.
- (e) All points on merits are kept open.
- (f) In view of these directions, Miscellaneous Appeal No.107 of 2023 does not survive. It is accordingly disposed of.

6. Rule accordingly. The writ petition is disposed of in aforesaid terms.
Parties to act on authenticated copy of this order.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]