

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

WRIT PETITION NO.14171 OF 2024

Jayashree Ashok Maskar .. Petitioner

Vs.

The Federal Bank Ltd., Narsinhwadi,
Dist. Kolhapur and Ors. .. Respondents

Mr. Manoj A. Patil, i/by Ms. Kalyani M. Mangave, Advocates for the
Petitioner.

Mr. O.A. Das, Advocate for Respondent Nos.1 and 2 – Bank.

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

DATE : 17TH OCTOBER 2024.

PC. :

1. Considering the nature of directions proposed to be issued, service on respondent nos.3 to 6 is dispensed with.

2. The petitioner, who is a plaintiff in Special Civil Suit No.53 of 2021 that has been filed by her for partition and separate possession, has been protected by the interim order passed by the trial Court below Exhibit-5 on 18th February 2022. The respondent nos.1 and 2 – Bank have been impleaded as defendant nos.5 and 6 in the said suit. The Bank being aggrieved by the order of injunction has preferred a Miscellaneous Civil Appeal along with an application for condonation of delay which is pending before the District Court. In the meanwhile, the Bank approached the learned Magistrate under Section 14 of the Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and on 3rd June 2024, the learned Chief Judicial Magistrate passed an order permitting steps to be taken to take over possession of the secured assets. Since the petitioner was affected by that order, she has approached the Debts Recovery Tribunal in the proceedings that were filed earlier by the Bank being Original Application No.1419 of 2023. Her application for impleading her as a party under the provisions of Order I Rule 10 of the Code of Civil Procedure, 1908 is pending. In the meanwhile, on 21st September 2024, the Court Commissioner has issued a notice intending to take over possession of a portion of the suit property on 18th October 2024. In this backdrop, the petitioner has approached this Court.

3. We have heard the learned counsel for the parties and we have also perused the affidavit-in-reply filed on behalf of the respondent-Bank. Undisputedly, an order of temporary injunction dated 18th February 2022 is operating in favour of the petitioner. The appeal preferred by the Bank for challenging that order is also pending. Similarly, the petitioner's application for being impleaded in the proceedings initiated by the Bank is also pending. In that view of the matter, without adjudicating any issue on merit, the following directions would serve the ends of justice :-

(a) The petitioner is at liberty to approach the Debts

Recovery Tribunal for raising a challenge to the steps taken by the respondent nos.1 and 2-Bank for enforcement of the security interest. She is also at liberty to pursue her interim application seeking impleadment in the proceedings filed by the Bank.

- (b) Since the date for taking over possession is tomorrow i.e. 18th October 2024, some breathing period is required to be granted to the petitioner. Hence, the date of possession as indicated in the notice dated 21st September 2024 is kept in abeyance for a period of four weeks from today.
- (c) It is clarified that all questions and rival contentions are kept open for being raised before the appropriate forum.

4. The writ petition is disposed of with aforesaid directions.
5. Parties to act on authenticated copy of this order.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]