

ITEM NO.15

COURT NO.2

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

IA 87917/2023,90721/2023,90722/2023, in Petition(s) for Special Leave to Appeal (C) No(s). 8761/2023

(Arising out of impugned final judgment and order dated 07-12-2022 in WP No. 5825/2017 passed by the High Court Of Judicature At Bombay)

ARCHANA SANJEEV PRAKASH

Petitioner(s)

VERSUS

CANARA BANK & ORS.

Respondent(s)

(FOR ADMISSION and I.R. IA No. 90722/2023 - EXEMPTION FROM FILING O.T., IA No. 90721/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 87917/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 15-05-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Ms. Asmita Singh, AOR
Mr. Gautam Narayan, Adv.
Ms. Asmita Singh, Adv.
Mr. Harshit Goel, Adv.
Ms. Akriti Arya, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Applications for exemption from filing O.T and,
permission to file additional documents/facts/
annexures are allowed.

Learned counsel for the petitioner submits that

the Power of Attorney given by the petitioner to the Uncle was for to purchase the property in question which Power of Attorney post purchase was utilized by the Uncle to create an equitable mortgage even though no power had been conferred. It is further submitted that the bank in the internal enquiry also found that there was *prima facie* a fraud with collusion with bank officials and the matter was referred to the CBI. The EOW at Pune on investigation has filed a charge sheet. It is thus his submission that an egregious fraud vitiates the whole aspect of creation of the mortgage even though on the first round the petitioner did not succeed on the issue of complying with the pre deposit for entertainment of grievance by appellate authority. These documents are stated to be suppressed by the bank.

It is further pointed out that allegedly personal guarantee documents were also signed on behalf of the petitioner by the Uncle and thus now apart from the property which already stands auctioned and sold, endeavour has been made to recover other outstanding amounts after adjustment of proceeds from the property from the petitioner too.

Issue notice.

In the meantime, no further recovery action be taken against the petitioner but the respondent bank

is free to proceed against the other debtors.

Copy of the order to accompany the notice.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[RANJANA SHAILEY]
COURT MASTER (NSH)