

**Application under sub-section (1) of section 17 of the Securitisation and
Reconstruction of Financial Assets and Enforcement of Security Interest Act,
2002 as amended upto date**

**Before the Debts Recovery Tribunal III , Kolkata
8th Floor, Jeevan Sudha Building, 42C Jawharlal Neheru Road,
Kolkata – 700071**

Sarfaesi Application No. _____ of 2019

**SHILPI CHAKRABORTY GHOSH
VS
HDFC BANK LTD. & ANR.**

Advocate-on-Record

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FORM

Application under sub-section (1) of section 17 of the Securitisation and
Reconstruction of Financial Assets and Enforcement of Security Interest Act,
2002 as amended upto date

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General Index

Sl no.	Description	Pg. no.
1.	Application u/s 17(1) of Sarfaesi Act, 2002	1 to 25
2.	List of documents enclosed	23 to 24
3.	Copy of documents	26 to 110
4.	Vakalatnama	111

BEFORE THE DEBTS RECOVERY TRIBUNAL III , KOLKATA

SARFAESI APPLICATION NO. _____ OF 2019

SHILPI CHAKRABORTY GHOSH

..... Applicant

-VS-

HDFC BANK LTD. & ANR.

..... Defendants

Details of application :

I. PARTICULARS OF THE APPLICANT :

i.	Name of the Applicant :	Shilpi Chakraborty Ghosh
ii.	Address of the Applicant :	C/o. Gopal Ghosh M.B.Sarkar Bagan S. M. Bose Road, Near 5 no. Railway Gate Agarpara, Kolkata – 700109
iii.	Address for service of all notices :	Same as above

2. PARTICULARS OF THE DEFENDANTS :

i.	Name of the Defendants :	1) Housing Development Finance Corporation Ltd. (PAN AAACH0997E) 2) The Authorised Officer, Housing Development Finance Corporation Ltd.
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ii.	Address of the Defendants :	1) Ramen House, HT Parekh Marg 169, Backbay Reclamation , Church Gate, Mumbai – 400020 2) 9 Shakespeare Sarani Branch, Brooke House, 2 nd floor, Kolkata - 700071
iii.	Address for service of all notices :	1) Same as above 2) Same as above

3. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the present application under section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 falls within the jurisdiction of this Hon'ble Tribunal as the alleged subject property is situated within the jurisdiction of Police Station – Ghola, Sodepur, N 24 Pargana.

4. LIMITATION :

The applicant declares that this application is filed within the limitation prescribed under the Securitisation and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002. The sale notice dated 27-07-2019 (pg 103) issued by defendant no. 2, being the authorised officer the of defendant no.1, was received by the applicant on 29-07-2019.

4A. LOCUS OF APPLICANT : Borrower

5. FACTS OF THE CASE :

1. All that piece and parcel of Flat no. D. admeasuring about 650 sq. ft. approximately on the 2nd floor in the apartment named "Panthaneer"

comprising of land under Mouza Natagar, J.L. No 15, Dag no. 3080 under Khatian no. 932 within the limits of Panihati Municipality, Holding no. 10, Barasat Road, Ghola check post, P.O – Ghola Bazar, P.S – Ghola in the District N 24 Pargana together with undivided proportionate share of right and interest on the said land is the “subject property” of the instant application.

2. That on or about 02-12-2003 an agreement for sale was executed by and between the applicant and the concerned Developer being a partnership Firm namely ‘The Friends Construction’ wherein the set forth value of the subject property was fixed at Rs. 4,71,250/- (Rupees Four lac seventy one thousand two hundred and fifty) only, a copy of the said agreement for sale dated 02-12-2003 along with the memo of consideration issued by the said developer for Rs. 70,687/- as part payment made on the same day are annexed herewith and collectively marked ‘A’.
3. On or about 05-11-2003 the applicant applied to the defendant no. 1 for housing loan which was approved by the said defendant vide its letter of sanction dated 24-11-2003 for a sum of Rs. 4,00,000/- (Rupees four lac) only @ interest of 7.75% p.a. on a variable rate basis on EMI of Rs. 3284/- p.m. for a term of 20 years. The copy of loan proposal form and sanction letter dated 24-11-2003 are annexed herewith and collectively marked ‘B’.
4. Accordingly, on 05-02-2004 the loan agreement was executed and 2 nos. of cheque total amounting to Rs. 4 Lac (Rupees four lac) only was issued in favour of the concerned developer. A copy of the said loan agreement dated 05-02-2004 along with the memo of cheques are annexed herewith and collectively marked ‘C’.
5. The applicant further paid the following sum on various dates and factually the developer received more than price fixed for the subject property :

Date	Received from	Mode of payment	Amount in INR
01-12-2003	Applicant	Cheque	5000/-
01-12-2003	Applicant	Cash	5000/-
02-12-2003	Applicant	Cash	70,687/-
04-12-2004	Applicant	Cash	20,000/-
18-12-2004	Applicant	Cash	15,000/-
06-05-2005	Applicant	Cash	15,000/-
26-12-2005	Applicant	Cash	24,500/-
05-02-2004	HDFC	Cheque	3 Lac
09-03-2004	HDFC	Cheque	1 Lac
Total			5,55,147/-

Copies of the money receipts issued by the concerned developer is annexed hereto and collectively marked 'D'.

6. It is pertinent to mention that registration of the said property was not carried out by the defendant no.1 after disbursement of the aforesaid loan but your applicant had duly started repayment of the said loan on and from 01-04-2004, a copy of repayment details issued by the defendant no. 1 for the year ending 31-03-2005 is annexed herewith and marked 'E'.
7. That sometime in January, 2005 your applicant got married and conceived around September,2005. Soon after conceive the medical condition of applicant was not favourable as she was carrying high risk pregnancy , she had to resign from her job in December, 2005. But there was no delay and/or default in repayment of the subject loan by the applicant.
8. It is significant to mention that after marriage the subject property was put under lock and key and the applicant shifted her in law house. On or about 24-01-2006 the applicant applied to the defendant no.1 to update her in laws' address as her permanent address for service of

communications which is mentioned in the cause title above and also requested to delete the address of her parental house being "Udayachal Abasan, Flat no. F, 4th floor, S.M.Bose Road, Agarpara, Kolkata – 700109" and her work place which she left some time in December, 2005 being "Distributed Object Technologies Ltd., Module No. 434 – 436, SDF Building, Sector V, Salt Lake City, Kolkata – 700091". Such request was duly processed by the defendant no.1 and copies of subsequent communications were duly sent by the said defendant via Indian Postal Service only to such updated address , copies of communication since February, 2006 in this regard are annexed and collectively marked 'F'.

9. As the applicant had to resign from her job was facing financial crunch and such facts were sometime discussed during casual talks with the partners of the concerned developer firm who advised to transfer the balance of the existing liability/ loan due to the defendant no.1 to ICICI Home Finance Co. Ltd. (IHFC) to enjoy better rate of interest by applying source as said partners had good contacts due to their business with the said bank. Relying upon the words of the said partners the applicant decided to transfer her concerned loan account from HDFC to IHFC. As the applicant was advised to complete bed rest at the relevant time all documentations and paper work were done at her residence for the said purpose.
10. Accordingly the applicant did signature upon some blank proposal from but instead of balance transfer, IHFC Chowringhee branch taking advantage of pending registration from the side of defendant no.1 , purportedly sanctioned fresh housing loan in favour of the applicant vide it's letter of sanction dated 30-12-2005 for a sum of Rs. 4,36,004/- (Rupees four lac thirty six thousand and four) only @ interest of 8.75% p.a. on floating rate basis on EMI of Rs. 3513/- p.m. for a term of 20 years, by issuing a cheque dated 31-12-2005 for Rs. 4 Lac only in favour of the concerned developer which was duly encashed.

11. Upon occurrence of such event the applicant/ applicant immediately enquired about such wrongful act of the IHFC when the said bank assured that until registration of the subject property is carried out the formalities for balance transfer is not possible. As such on 12-01-2006 the subject property was duly registered before the Registrar of Assurance , Kolkata at the instance of IHFC Bank , copy of the said letter of sanction dated 30-12-2005 along with memo of cheques for Rs. 4 Lac in favour of the said developer are annexed hereto and collectively marked "F1".

It is pertinent to mention that after registration of the subject property the original copy of the IGR was taken away by the advocate deputed by IHFC and the applicant has no knowledge and idea thereafter about the release of the concerned Deed of Conveyance relating to the subject property, copy whereof is annexe and marked as "F2".

12. After registration of the said property the applicant immediately started repayment to IHFC.

It is very much crucial to mention that it was advised by IHFC that the applicant is required to make payment of EMI to HDFC until process of balance transfer is completed. It was further advised by IHFC that such dual payment will be adjusted by IHFC in the revised Schedule of repayment after balance transfer is done.

13. The applicant humbly submits that it is a fact that the applicant was victimised by the burden to pay-off two housing loans for the same property whereas all the partners of the concerned developer knowingly and intentionally enjoyed wrongful gain by receiving a total sum of Rs. 9,55,187/- (Rupees eight lacs fifty five thousand one hundred and eighty seven) only for the subject property by accepting Rs. 4 Lac from HDFC and further Rs. 4 Lac from IHFC and the rest of the Sum of Rs. 1,55,187/- from in-pocket of the applicant as stated above.

14. That since after birth the child of the applicant was suffering from severe kidney problem 'Reflux level -5' which was treated for years. During this period the applicant and her husband was passing their days under great trauma for the baby and was not in a mental condition to peruse/ follow up with IHFC for balance transfer. Your applicant craves leave to produce relevant medical documents in this regard, if necessary.
15. It is pertinent to mention that on and from 2007 the applicant did not receive any statement of accounts from the end of the defendant no.1 , HDFC which gave an impression to the applicant completion of the process of balance transfer from defendant no.1 to IHFC.
16. But the applicant was bewildered when on or about 05-01-2018 she came to know from the tenant in possession of the subject property , that the representatives of the defendant no.1 visited the subject property and asked to vacate such property in view of order passed by the Ld. District Magistrate , N 24 Pargana in favour of the defendant no.1, to take over physical possession of the same, but no copy of such order was supplied at that moment.
- Coming to know the same the applicant rushed to the Shakespeare Sarani Branch of the defendant no.1 to enquire when said defendant clearly refused to give any answer and also refused to supply copy of such order passed by Ld. DM.
17. Thereafter the applicant was advised to file an application u/s 144(2) for Cr.P.C. for obtaining an order of injunction against the defendant no.1, its men, agents and servants from disturbing peaceful possession of the applicant over the subject property , when upon hearing an order was passed on 08-01-2018 inter-alia directing the concerned P.S- Gholia to file enquiry report and also to ensure peaceful possession. Copy of such petition being no. 94 of 2018 filed on 08-01-2018 before the Ld. Executive

Magistrate, Barrackpore together with copy of said order dated 08-01-2018 are annexed hereto and collectively marked 'G'.

18. In contest to such application the defendant no.1 duly appeared in the said proceeding on 19-03-2018 and filed an application u/s 144(5) of Cr.P.C. challenging the said order dated 08-01-2018, copy of the same without annexures is annexed hereto and marked 'H'.

19. The applicant states that only after filing of said application u/s 144(5) of Cr.P.C. , it came to the knowledge of the applicant from the documents annexed and relied upon by defendant no.1, the series of serious fraud that it perpetrated upon the applicant with an intent to deceive and garb the subject property by adopting illegal and unlawful means. Such facts or rather particulars of fraud are detailed herein below :

- a) That by a letter dated 28-06-2012 the defendant no.1 recalled the loan granted to the applicant but such letter was never served upon the applicant, copy of the said letter together with envelopes with remarks 'Left' are annexed hereto and collectively marked 'I'.

It is significant to state that such letter was never transmitted at the permanent address of the applicant as mentioned in the cause title above which was duly updated by the defendant no.1 in its record long back in January, 2006.

- b) Thereafter a purported notice u/s 13(2) of The Sarfaesi Act , 2002 was issued by the said defendant no.1 on 13-07-2012 which was also not served upon the applicant. A copy of the said demand notice dated 13-07-2012 is annexed hereto and marked 'J'.

It is necessary to mention that in the said application u/s 144(5) the defendants did not annex the whole copy of the demand

notice , as such the applicant reserves her right to make appropriate submissions challenging the same after supply of complete copy of the same. The applicant also craves leave to produce the copy of said application served upon before the Ld. Magistrate's Court at the time of hearing , if necessary.

It is significant to state that such letter was never transmitted at the permanent address of the applicant as mentioned in the cause title above which was duly updated by the defendant no.1 in its record in January, 2006.

It is also pertinent to mention that in the said proceeding u/s 144(5) of Cr. P.C. the defendant no.1 had relied upon the said purported notice u/s 13(2) of Sarfaesi Act, 2002 wherein they have made false statement that such notice was received by the applicant , but did not produce any evidence in support thereto. Being more specific the defendant failed to produce a single postal receipt w.r.t. any of the 3 addresses of the applicant to prof its despatch but has annexed a xerox copy of A/D card without any official seal of India Post purportedly reflecting the name of the applicant's mother at the place of signature of addressee at her parental address. Further there was no document to show that such demand notice was at all despatched to other 2 addresses nor any track report relating to the same.

Neither the service of such demand notice was effected by affixing a copy of such notice on the outer door or some other conspicuous part of the subject property.

- c) That the said defendant no.1 also published the said fictitious demand notice in 'Times of India ' and 'Ei Samay' on 31-08-2012 under Rule 3(1) of Security Interest (Enforcement) Rules, 2002,

which the applicant never came across, copies of which are annexed hereto and collectively marked 'K'.

- d) The said defendant no.1 also relied upon a purported notice u/s 13(4) dated 14-11-2012 which was also not served upon the applicant and such copy relied upon was neither supported by any postal receipt and/or track result in proof of despatch and delivery.

It is significant to state that such notice was never transmitted at the permanent address of the applicant as mentioned in the cause title above which was duly updated by the defendant no.1 in its record in January 2006.

Further such notice of possession was neither affixed on the outer door or some other conspicuous part of the subject property.

More fully to substantiate such false averment the defendant no.1 made another fallacious statement that such notice dated 14-11-2012 was replied on 22-11-2012 by the advocate for the applicant namely, one Mr. Sanjit Kumar Dubey, Advocate, wherein it was wrongfully stated that such notice dated 14-11-2012 was received by the mother of the applicant. More so to complete the cycle of false , concocted and manufactured correspondences such reply dated 22-11-2012 was duly reverted by the defendant no.1 by its letter dated 27-11-2012. In the said letter dated 27-11-2012 the defendant addressed it to the said advocate Sanjit Kumar Dubey with copy to the applicant at abandoned addresses . Further the defendant no. 1 relied upon the same without any copy of postal receipt and track report evidencing such letter was at all despatched or delivered to any of the addressee mentioned therein. Copies of the said notice dated 14-11-2012, 22-11-2012 and 27-11-2012 are annexed hereto and collectively marked 'L'.

In this regard the applicant specifically states that no notice dated 14-11-2012 was ever served upon the applicant and the applicant had never engaged said Mr. Sanjit Kumar Dubey , Advocate to reply to the said defendant no.1 on her behalf.

- e) After such mischievous act, the defendant no.1 made Paper publication of symbolic possession beyond the prescribed period on 28-11-2012 w.e.f. 26-11-2012 which also came into light during the said proceeding u/s 144(5) of Cr.P.C., a copy of such paper publication is annexed herewith and marked '**M**'.
 - f) Thereafter on 19-09-2014 the said defendant no.1 ultimately filed an application u/s 14 of Sarfaesi Act, 2002 , being Case no. 390/14/MN before the District Magistrate , N 24 Pargana , copy of which was also not served upon the applicant as such the matter was heard in the absence of the applicant and finally decided ex-parte on 06-03-2017 directing the concerned police authority to provide assistance to the said defendant no.1 to take over physical possession of the subject property, copy whereof is annexed hereto as annexure '**N**'.
20. In the proceeding u/s 144 of C.P.C. after hearing both the parties the Ld. Executive Magistrate was pleased to dispose of the matter on 18-06-2018 giving liberty to the parties to approach the appropriate forum being the matter civil in nature, copies of the certified copy of all orders passed in M.P. Case No. 94 of 2018 are annexed hereto and collectively marked '**O**'.
21. Immediately thereafter the applicant sent letter dated 28-06-2018 through advocate inter-alia stating that the permanent address of the applicant was recorded before it long back in January, 2006 and further asking to send all future communications at the address mentioned in the

cause title above. Copy of the said letter dated 28-06-2018 together with postal receipt and track report showing delivery are annexed hereto and collectively marked '**P**'.

22. Thereafter further letter was sent to the defendant no.1 by the applicant itself on the same contention, copy of the said letter dated 29-08-2018 along with postal receipt is annexed hereto and marked '**Q**'.

But no response to any of these two letters was received by the applicant.

23. Thereafter all on a sudden on 29-07-2019 the applicant received all together notices for physical possession under Rule 8(1) dated 26-07-2019 and notice under Rule 4(2A) dated 27-07-2019 and notice of sale under Rule 8(6) dated 27-09-2019, copies of said notices together with envelopes showing same date and time of despatch are annexed and collectively marked '**R**'.

Upon receipt of the same the applicant immediately reached the subject property and found that the defendants have taken over physical possession of the same by putting pad lock.

GROUNDS

- I. FOR THAT the defendants had purportedly issued the demand notice in violation to rule 3(i) of the Security Interest (Enforcement) Rules, 2002.
- II. FOR THAT the purported demand notice was never served upon the applicant.
- III. FOR THAT the copy of notice u/s 13(2) dated 13-07-2012 as annexed incomplete in application u/s 144(5) of Cr.P.C. , which being the only

source of knowledge of such document is highly suspicious as the defendants have intentionally avoided to annex copy of the postal receipt whereas have annexed xerox copy of the A/D card without any official seal of India Post purportedly reflecting the name of the applicant's mother at the place of signature of addressee at her parental address. Further there was no document to show that such demand notice was at all despatched to other 2 addresses nor any track report relating to the same.

- IV. FOR THAT the defendants had purportedly issued the notice of symbolic possession dated 14-11-2012 in complete evasion of Rule 8(1) of the Security Interest (Enforcement) Rules, 2002.
- V. FOR THAT the purported notice for symbolic possession was never served upon the applicant.
- VI. FOR THAT the defendants had caused paper publication of notice of symbolic possession on 28-11-2012 in violation of Rule 8(2) of the Security Interest (Enforcement) Rules, 2002
- VII. FOR THAT in view of such unabridged violation of the relevant rules and provisions by the defendants as aforesaid the demand notice, the notice for symbolic possession and paper publication are all null and void in the eye of law.
- VIII. FOR THAT the order dated 06-03-2017 passed in application filed u/s 14 of Sarfaesi Act, 2002 , being Case no. 390/14/MN before the District Magistrate , N 24 Pargana are null and void as the same has been obtained by misleading and perpetrating fraud upon the Ld. Court.
- IX. FOR THAT all subsequent actions taken by the defendants to enforce the security, specifically the notice for physical possession dated 26-07-2019, notice under Rule 4(2A) dated 27-07-2019 and notice of sale dated 27-07-2019 , axiomatically turns bad and non-effective under the special statute of 2002.

- X. FOR THAT the entire action of the defendant no. 2 are without jurisdiction and liable to be set aside and/or withdrawn.
- XI. FOR THAT the defendant no. 2 issued the sale notice for depletion of the money from the applicant.
- XII. FOR THAT the defendant no. 2 failed to mention any rate of interest in its sale notice dated 27-07-2019 resulting which the applicant could not be able to understand the actual amount due and payable to the bank.
- XIII. FOR THAT the defendant no. 2 levied excessive amount of claim upon the applicant and initiated the procedure only to grab the valuable property of the applicant.
- XIV. FOR THAT the defendant no. 2 issued an illegal possession notice dated 14-11-2012 and 26-07-2019 in terms of an illusory demand notice and hence failed and neglected to follow the procedure of Rule 8 (1) of the said rules.
- XV. FOR THAT the defendant no. 2 published the said illusory demand notice in the newspaper. Publication of such possession which is totally illegal and incomplete are also the erroneous and mischief from the part of the defendant no. 2 and the same is liable to be withdrawn.
- XVI. FOR THAT the defendant no. 2 published the said defective and illegal notice for symbolic possession in the newspaper. Publication of such possession which is totally illegal and incomplete are also the erroneous and mischief from the part of the defendant no. 2 and the same is liable to be withdrawn.
- XVII. FOR THAT the acts and no. 2 on behalf of the defendant no. 1 are illegal, arbitrary, perfunctory and the deliberate violation of the statute, hence, the said act and omissions of the defendant no. 2 initiated on behalf of the defendant no. 1 liable to be set aside and/or withdrawn.

XVIII. As stated more fully in the grounds for filing the instant application, the applicants crave leave to treat these as the integral part hereof to avoid prolixity and further repetition.

24. Unless the relief (s) as prayed for herein, are granted even in the interim order the ad-interim forms, the applicant would be deprived of her right of property as guaranteed under Article 300A of the Constitution of India.

25. The applicant has very strong privacy case on record and on facts. The acts of the defendants are illegal and wholly without jurisdiction for which immediate interim reliefs should be granted without putting the applicant to terms.

26. The preponderance of balance of convenience is absolutely in favour of the applicant, since the above-mentioned demand notice, possession notice and the paper publications and all other subsequent actions including notice of physical possession and sale notice issued by the defendant no.1 or the intended process of sale by public auction to be taken up by the defendant no.1 are totally illegal, null and void and unless appropriate restraint orders are passed, the defendant bank may proceed to sell out the property which can frustrate the entire defence of the applicant.

27. The applicant craves reference to the provisions of the statute aforesaid and craves leave to make appropriate submission of law that the time of hearing.

28. That it is apparent on record that the defendant no.1 has acted with all its high-handedness and arbitrariness by adopting dishonest and illegal means to make wrongful gain by causing wrongful loss to the applicant.

29. It is submitted that the acts, deeds and things done by the defendant no.1 being not in conformity with the real intention of the legislation and devoid of the provisions and rules made there under, are completely

invalid and the same are to be declared as non-binding upon the applicant in any manner whatsoever and the defendant no.1 be directed not to take any action in pursuance of notice of sale dated 27-07-2019 under provisions of the Sarfaesi Act clinging upon said purported demand notice dated 13-07-2012, possession notice dated 14-11-2012 and order dated 06-03-2017 passed by the Ld. DM, N 24 Pargana and notice for physical possession dated 27-07-2019.

30. The applicant submits that unless said demand notice dated 13-07-2012, possession notice dated 14-11-2012 and order dated 06-03-2017 passed by the Ld. DM, N 24 Pargana and notice for physical possession and notice for sale both dated 27-07-2019 all are declared as null and void and the defendant no.1 is restrained by an appropriate order not to sale and/or take any adverse steps against the subject property without complying the provisions of relevant laws and rules framed thereunder , the applicant will suffer serious prejudice and irreparable loss which can't be quantified and will attract multiplicity of proceedings.

31. The applicant submits that the applicant is a victim of the swindling deeds of the defendant no.1 as mentioned herein above as well as destiny.

32. That this application is made bonafide and for the ends of justice.

6. RELIEF(S) SOUGHT :

In view of the facts mentioned in paragraph 5 above, the applicant prays for the following reliefs :

- i. To declare that the demand notice dated 13-07-2012 under section 13(2) of the Sarfaesi Act, 2002 as null and void as the same was never served upon and/or transmitted at the permanent address of applicant updated with the defendant bank neither the said notice was affixed on the outer door or any conspicuous space of the subject property as per Rule 3 of Security Interest (Enforcement) Rules, 2002.
- ii. To declare that the act of issuance of possession notice dated 14-11-2012 is also invalid as the same was never served upon and/or transmitted at the permanent address of applicant updated with the defendant bank neither the said notice was affixed on the outer door or any conspicuous space of the subject property as per Rule 8(1) of Security Interest (Enforcement) Rules, 2002 and is wholly contrary to the provisions of the Sarfaesi Act, 2002 and the same is non-binding upon the applicant in any form and thus liable to be cancelled.
- iii. To declare that the publication 28-11-2012 under Rule 8(3) Security Interest (Enforcement) Rules, 2002 as null and void as the same was published beyond the prescribed period.
- iv. To declare the order dated 06-03-2017 passed by the Ld. DM, N 24 Pargana in Case No. 390/14/MN as null and void as the same has been obtained by misleading and perpetrating fraud upon the Ld. Court by the defendants.
- v. To declare the notice of physical possession dated 26-07-2019 as null and void being action taken in continuity to such illusory and purported demand notice and notice of symbolic possession and paper publication.
- vi. To declare the notice under Rule 4(2A) dated 27-07-2019 as null and void being action taken in continuity to such purported demand notice and notice of symbolic possession and paper publication.

- vii. To declare the notice of sale dated 27-07-2019 as null and void being action taken in continuity to such illusory and purported demand notice and notice of symbolic possession and paper publication.
- viii. To grant all costs and expenses of this proceedings.
- ix. Any other direction/s, order/s and relief/s to which the applicant is entitled under the law, equity and good conscience and for the neds of justice.

7. INTERIM ORDER PRAYED FOR :

Pending final decision on the application, the applicant seeks issue of the following interim orders :

- i. To stay notice of sale dated 27-07-2019 till the disposal of the application along with order restraining the defendants and its men , agents and servants not to deal with the subject property or to create any third party interest thereto and therein in any form whatsoever till the disposal of the application and if such prayer for interim relief are not granted immediately then there is every apprehension that the defendant bank with all haste will create third party interest in or upon the subject property prejudicially affecting the right, title and interest of the applicant pertaining to the subject property.
- ii. To grant an order of stay restraining the defendant bank and its men, agents and servants from taking any further recourse in respect of the subject property on the basis of said order dated 06-03-2017 passed by the Ld. DM, N 24 Pargana in Case No. 390/14/MN till the disposal of the application.

- iii. To stay demand notice dated 13-07-2012 till the disposal of the application.
- iv. To stay notice of symbolic possession dated 14-11-2012 till the disposal of the application.
- v. To stay notice of physical possession dated 26-07-2019 till the disposal of the application.

8. MATTER NOT PENDING WITH ANY OTHER COURT :

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal.

9. PARTICULARS OF BANK DRAFT :

- i. Name of the bank on which drawn : BOI
- ii. Demand draft no : 404252
- iii. Date : 13-08-2019

10. DETAILS OF INDEX :

An index in duplicate containing the details of the documents to be relied upon is enclosed.

11. LIST OF ENCLOSURES :

Annexure	Particulars of document	Pg no.
A	Copy of agreement for sale dated 02-12-2003 along with the memo of consideration	26A - 31
B	Copy of loan proposal form and sanction letter dated 24-11-2003	32 - 34
C	Copy of the loan agreement dated 05-02-2004 along with memo of cheques	35 – 47
D	Copies of money receipts issued by the concerned developer	48 - 49
E	Copy of repayment details issued by the defendant bank for the year ending 31-03-2005	50
F	Copies of communications sent by the defendant via Indian Postal Service at the address mentioned in the cause title above	51 - 53
F1	Copy of letter of sanction dated 30-12-2005 by IHFC along with memo of cheques for Rs. 4 Lac in favour of the developer	53A – 53C
F2	Copy of IGR receipt	53D
G	Copy of petition being no. 94 of 2018 filed before the Ld. Executive Magistrate, Barrackpore together with copy of order dated 08-01-2018	54 – 60
H	Copy of application u/s 144(5) of Cr.P.C. challenging the order dated 08-01-2018	61 – 67
I	Copy of letter dated 28-06-2012 recalling the said loan together with envelops	68 – 73

J	Copy of demand notice dated 13-07-2012 issued u/s 13(2) of Sarfaesi Act, 2002	74 – 76
K	Copy of paper publication of demand notice in 'Times of India ' and 'Ei Samay' on 31-08-2012	77 – 78B
L	Copies of notice dated 14-11-2012 , 22-11-2012 and 27-11-2012	79 – 83
M	Copy of paper publication dated 28-11-2012 for symbolic possession	84 – 85
N	Copy of order dated 06-03-2018 passed in application u/s 14 of Sarfaesi Act, 2002 , being Case no. 390/14/MN before the District Magistrate , N 24 Pargana	86
O	Copies of the certified copy of all orders passed in M.P. Case No. 94 of 2018	87 – 90
P	Copy of letter dated 28-06-2018 together with postal receipt and track report	91 – 93
Q	Copy of letter dated 29-08-2018 along with postal receipt	94 – 95
R	Copies of notices for physical possession and notice under Rule 4(2A) dated 27-07-2019 and notice of sale dated 27-09-2019 with envelopes	96 - 110

AFFIDAVIT

I, Shilpi Chakraborty Ghosh, wife of Sri Gopal Ghosh, permanently residing at Udayachal Abasan, Flat no. F, 4th Floor, S. M. Bose Road, Near 5 no. Railway Gate Agarpara, Kolkata – 700109 , do hereby solemnly affirm and say as follows :

1. That I am the applicant in the instant application and well acquainted with the facts and circumstances of the instant case
2. That the statements contained in paragraph 1 to 5 are true to my knowledge and rest are the humble submissions before this Ld. Tribunal.
3. That all the statement made above are true to best of my knowledge and belief.

BEFORE THE DEBTS RECOVERY TRIBUNAL III , KOLKATA
SARFAESI APPLICATION NO. _____ OF 2019

In the matter of :

SHILPI CHAKRABORTY GHOSH
..... Applicant

-VS-

HDFC BANK LTD. & ANR.
..... Defendants

SARFAESI APPLIACTION

Advocate-on -Record

Debisree Adhikary
C/o. D & D Law and Tax Firm
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