

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 127 OF 2015

SHRI. VIJAYKUMAR KASHINATH FADKE
PILIENKAR.

... Petitioner

Versus

STATE OF GOA THROUGH ITS CHIEF
SECRETARY AND 4 ORS.,

... Respondents

Shri P. K. Gude, Advocate for the petitioner.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 13th April, 2015

P.C.:

The above petition, inter alia, prays for a writ of mandamus, directing the respondents No.2, 3, and 4 not to attach and take possession of Flat No.F3, Martin Residency, Building B, Borda, Margao, Goa belonging to the petitioner.

2. On perusal of the order dated 24th August, 2010, we find that the Collector, South Goa, Margao found that there was no provision for review of the order under the Secularisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and, therefore, dismissed the review application filed by the petitioner.

3. By an order dated 17th September, 2013, the DRT-III,

Mumbai has passed the following directions :

(1) The respondent Bank to deliver the possession of the flat in question to the wife of the applicant, in whose favour Power of Attorney is executed by the applicant.

(2) The possession of the flat in question is to be delivered on 24.9.2013 at 11 a.m. of course subject to compliance of I.R. granted.

(3) The Power of Attorney holder shall issue receipt to the respondent Bank after handing over possession of the flat in question.

4. Considering the said order of the DRT which came to be passed upon hearing the parties, we find that the question of any interference by this Court in the present writ petition would not arise.

5. Shri P.K. Gude, learned Counsel appearing for the petitioner has pointed out that the impugned order dated 17/09/2013 is without jurisdiction as, according to him, the amount involved is less than Rs.10,00,000/- and, as such, the condition imposed by the impugned order to deposit the sum of Rs.4,00,000/-

and odd is without jurisdiction.

6. We fail to appreciate the said contention of the learned Counsel appearing for the petitioner. The petitioner himself, through his wife, has invoked the jurisdiction of the Tribunal and obtained the order with regard to the possession of the flat in dispute. In such circumstances, the question of entertaining the above petition or examining the said grievance raised by the petitioner would not arise.

7. In view of the above, we find that no case is made out for interference by this Court in the impugned order in a petition under Articles 226 and 227 of the Constitution of India. The petition stands, accordingly, rejected.

K. L. WADANE, J.

F. M. REIS, J.

ssm.