

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 446 OF 2015

MR. PRADEEP J. KHAUNTE AND ANR., ... Petitioners
Versus
VIJAYA BANK THROUGH ITS CHIEF
MANAGER AND 4 ORS., ... Respondents

Mr. S. M. Walwaikar, Advocate for the Petitioners.
Mr. Nikil Vaze, Advocate for the Respondent no.2.

Coram:- C. V. BHADANG, J.

Date:- 27th August, 2015

P.C.:

Heard Mr. Walwaikar, the learned counsel for the petitioners and Mr. Vaze, the learned counsel for the respondent no.2 for some time.

2. The only ground raised by the petitioner is that he is the owner of plot no.D-5 which is admeasuring 7127 sq.metres, out of the property surveyed under survey no.26/2. It is contended that the first respondent, bank, in pursuance of the proceedings under the Secularitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SERFASI Act) has fraudulently attached the said property along with a bungalow standing thereon. It is submitted that the borrower has admittedly mortgaged the property which is Plot no.D-4 to the bank and under the garb of attaching the property D-4, in fact the plot of the petitioner has been attached. The petition essentially challenges the

panchanama (Annexure-H) recorded by the Revenue authorities on 15/5/2015. The petitioner had raised a similar objection before the District Magistrate and by an order dated 6/5/2015, the District Magistrate had directed the Mamlatdar of Tiswadi to take possession of plot no.D-4 admeasuring 7127 sq.metres. The short contention is whether instead of plot no.D-5 what is attached is the property plot no.D-4 along with bungalow standing therein.It is undisputed that the petitioner has also filed a suit challenging the action of the bank.

3. On hearing the learned counsel for the parties, it appears that disputed questions of facts are involved. Faced with this difficulty, the learned counsel for the petitioner, on instructions seeks permission to withdraw the petition. In such circumstances, the writ petition is disposed of as withdrawn, with no order as to costs. The rival contentions of the parties are expressly kept open to be agitated before the appropriate Court/Authority.

C. V. BHADANG, J.

ap/-