

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

WRIT PETITION NO. 993 OF 2015

Krupasindhu Builders & Developers

Prop. Amol Jaywant Pawar

... Petitioner

Vs

Union of India & Ors.

... Respondents

Mr. Sandeep Shripal Koregave for the Petitioner

Mr. S. B. Bhosale with Mr. Ajay Patil for the Respondent No.1-UOI

Mr. P. G. Sawant, A.G.P for the Respondent No.2-State

Mr. Shrivallabh Panchpor i/b SNP Legal for the Respondent No.3

**CORAM : V. M. KANADE &
REVATI MOHITE DERE, JJ.**

TUESDAY, 3rd FEBRUARY, 2015

P.C. :

1. Heard the learned Counsel appearing on behalf of the petitioner and the learned Counsel appearing on behalf of the respondents.

2. Petitioner is aggrieved by the notice which has been issued by the bank dated 16th January, 2015 which has been issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('the said Act'). It is submitted that though demand notice has been issued on 28th November, 2014, before

the expiry of 60 days, the bank has issued this notice on 16th January, 2015.

It is submitted that therefore the bank has not acted in a bonafide manner and the said notice itself is illegal and contrary to the provisions of Sections 13 and 14 of the said Act.

3. On the other hand, learned Counsel appearing on behalf of the bank submitted that the notice itself mentions that if possession is not handed over by the petitioner, then the bank shall approach the District Magistrate under Section 14 of the said Act and only after obtaining the orders from the District Magistrate, bank will take physical possession of the property. Learned Counsel appearing on behalf of the bank further submitted that the petitioner has an alternate remedy of filing an appeal under Section 17 of the said Act.

4. Learned Counsel appearing on behalf of the bank further submitted that the bank proposes to take symbolic possession of the said property and the dues which are payable to the bank are more than Rs. 6 crores.

5. In our view, the apprehension expressed by the petitioner is totally misconceived. The bank, at the most, can take symbolic possession

of the property and for the purpose of taking physical possession, the bank will have to approach the District Magistrate under Section 14 of the said Act.

6. Even if an order is passed under Section 14 of the Act, the petitioner has an alternate remedy of filing an appeal under Section 17 of the said Act. The statement made by the learned Counsel for the bank is, therefore, accepted. The bank shall not take physical possession without obtaining the orders of the District Magistrate under Section 14 of the said Act. The bank, however, is at liberty to take symbolic possession of the said property. Liberty is granted to the petitioner to file appeal under Section 17 of the said Act, if any adverse order is passed by the District Magistrate under Section 14 of the said Act.

7. With the aforesaid liberty to the petitioner, the petition is disposed of. All contentions raised by both the parties are kept open.

REVATI MOHITE DERE, J.

V. M. KANADE, J.