IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.562 OF 2015
IN
COMPANY PETITION NO.90 OF 2011

Mr. Mukund N. Shah & Anr. ...Applicants

In the matter between :

Canbank Factors Limited ...Petitioner
(Orig. Petitioner)

vs.

Paper Print India Pvt. Ltd. ...Respondent
(Orig. Respondent)

.....

Mr. Girish Kedia, for the Applicants.

Ms. Yogini Chauhan, Assistant Official Liquidator present.

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CORAM: S.C. GUPTE, J.

DATE : 9 JULY, 2015.

P. C. :-

. The Company Application seeks a direction against the Official Liquidator to handover possession of factory premises described in prayer clause (a) of the application. The Official Liquidator appears to be in symbolic possession of this factory premises. It is the case of the Applicants that the Respondent Company had created a mortgage in favour of Saraswat Bank on 4 July 2005. The mortgage debt being outstanding and payable, the bank issued a securitisation notice under Section 13(2) of the The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the Act").

Pursuant to this notice and a further notice issued under Section 13(4) of the Act, the bank also took physical possession of the property on 19 May 2009. Thereafter, the bank valued the property and put the same up for public auction. The Applicants have purchased this property in the public auction conducted by the Bank. A sale certificate dated 5 May 2014 has been issued by the Saraswat Bank in favour of the Applicants. The sale certificate acknowledges the payment by the Applicants of the full auction sale price Rs.2.76 crores to the Bank on as is where is basis and confirms the bank having handed over possession of the subject property together with the title deeds to the Applicants. The purchase of the subject property has been registered in favour of the Applicants with the Sub-registrar of Assurances. In the premises, the Applicants, who are in physical possession of the subject property, seek an order against the Official Liquidator directing him to handover formal possession of the property to the Applicants. The present Company Petition was admitted on 5 September 2012. The petition was finally allowed and winding up order passed on 19 January 2015.

2. Considering the fact that the property was already possessed by Saraswat Bank much prior to the filing of the present petition and also the fact that in pursuance of the securitization proceedings the sale of the subject property was already conducted prior to the winding up order, the Company Application is allowed in terms of prayer clause (a). The Official Liquidator shall remove the notice put up by him on the premises signifying his symbolic possession, within a period of two weeks from today.

(S. C. GUPTE, J.)