

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 2373 OF 2015

M/s. Asis Logistics Ltd.	}	
and Anr.	}	Petitioners
versus		
State Bank of India	}	Respondent

Mr. Nitin Thakkar – Senior Advocate with
Mr. Jay Choksi and Mr. Jay Mehta
i/b.M/s. Law Frame for the Petitioner.

Mr. Lalit Kumar Jain i/b. M/s. Lalit
Kumar Jain and Co. for the Respondent.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATED :- NOVEMBER 23, 2015

P.C. :-

After this Writ Petition was placed on the earlier occasion and today, we have been informed that presently there is no apprehension, as the bank could not take possession of the premises more particularly referred to and described at page 136 of the paper book, in the light of the order of the presiding officer, Debt Recovery Tribunal, II, Mumbai dated 22nd July, 2015. Mr.Thakkar, learned Senior Counsel appearing for the Petitioner would submit that the compilation of documents also refers to an additional correspondence with the bank. Interim Application

No. 239 of 2014 on which the order has been passed by the presiding officer, did not contain any reference to these documents and some of them are subsequent in point of time.

2) Mr. Thakkar submits that the Petitioners would make, therefore, a fresh application seeking interim reliefs in the pending securitisation application and for that purpose, they would withdraw the Petition with liberty to make the same. There is an apprehension, however, that before that application is made, the bank would again take steps to evict and dispossess the Petitioners from the immovable properties.

3) Since the bank's Counsel, on instructions, fairly states that the bank was unable to obtain the possession and would have to take fresh appointment in that behalf, we do not think that the Petitioners' apprehension has any basis.

4) We grant leave to the Petitioners to withdraw the Petition with liberty to file either a further interim application in the pending securitisation application or Appeal against the order dated 22nd July, 2015. If the Petitioners have any remedy in the nature of review in law, that may also be availed of. In all such proceedings, it would be open for the Petitioners to rely upon any further correspondence or documents which have been

exchanged with the bank. Equally the banks contentions to the contrary, including on the point of maintainability of the proceedings to be initiated by the Petitioners are kept open. We clarify that we have not expressed any opinion on the merits of the contentions. The Writ Petition is disposed of with no order as to costs.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)