

WRIT PETITION (L) NO.3236 OF 2015

Mr.Mathews J. Nedumpara with Mr.Nishant Sangle for
Petitioner.
Mr.Sanjiv Punalekar i/by PRS Legal for Respondent no.1.

DATE : 20 November 2015

PC :

The Petitioner is aggrieved by the order below application under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 ('Securitization Act'), a copy of which is at page 89 of the paper book, Annexure-C. The First Respondent bank made this application being Securitization Application No.2461 of 2012 on which the District Magistrate, Thane passed following order :

"ORDER

Application is allowed. Tahsildar Thane is hereby appointed to take possession of the secured assets viz. of A53,

T.T.C. Industrial Area, M.I.D.C. Mahape, Navi Mumbai-400 705. 2) Row House No.16, Plot No.57 to 61, Om Villa, Sec.21, Nerul, Navi Mumbai, 3), 4) Row House No.RH-4 and No.RH-6, Plot No.105-106, Shiv Kutir, Geetika CHS Ltd, Sec.29, Vashi, Navi Mumbai, 5) Shop No.14, Ground Floor, Plot No.1, Mahavir Milan CHS Ltd, Sec.21, Vashi, Navi Mumbai, and to take further steps in the matter. After taking possession of the above said property and the documents relating thereto from the respondent, Tahsildar Thane shall prepare inventory of the articles in the property therein, and hand over the articles to the Authorized Officer of the applicant along with possession of the secured assets.

In case if the respondents failed to hand over peaceful possession of the secured assets within stipulated period or any other person found in possession of the secured assets, the Tahsildar Thane is permitted to take the legal steps as well as to take the assistance of the concerned Police station, for taking possession of the property i.e. secured assets.

Tahsildar Thane shall report compliance of the order within one year from the date of issue of this order. After the one year period this order shall not be operative and will become null and void.

(P.Velrasu)

District Magistrate, Thane.

Place : Thane.

Dated : 19/10/2013.

Copy forwarded to Tahsildar Thane for necessary action and report."

2. Mr.Nedumpara appearing for the Petitioner firstly submitted that the Petitioner would lose possession of her property in the light of this order and direction. However, he then points out that this order cannot be implemented and executed so also enforced simply because it was in force for one year from the date of issuance. After that period has expired, the order itself will not be operative.

3. The Respondent no.1 bank is represented by Mr.Punalekar and on the earlier occasion he sought adjournment to seek specific instructions as to whether the order has been continued and is operative. Now, on instructions from Respondent nos.1 and 2, Mr.Punalekar informs the Court that in the light of the order passed and reproduced above, the Respondent no.1 will have to take such steps as are permissible in law including under Section 13(4) of the Securitization Act. Until such steps are taken, the Petitioner may not have any apprehension of being dispossessed, much less, forcibly.

4. Since the statements made are made on instructions, we are of the view that we have sufficiently redressed the complaint of the Petitioner. Without expressing any opinion on the contentions of both sides and on the legality and validity of the action under Section 13(2) of the Securitization Act and the further steps, we dispose of this petition. We clarify that all such contentions as are propose to be raised, can be raised, in the event the bank takes steps as indicated by Mr.Punalekar. No order as to costs.

(S.C.DHARMADHIKARI, J.)

(B.P.COLABAWALLA, J.)