

FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.Writ Petition No. 2727 of 2015

Karuna Shankar Tiwari

v.

The Collector/District Magistrate Amravati. & anr.

Office Notes, Office Memoranda of Coram
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's orders

Mr. S.M. Vaishnav Advocate for Petitioner.

....

**Coram : B.P Dharmadhikari &
S.B. Shukre, JJ.****Date : 08th May, 2015.**

Submission of Advocate Vaishnav is after orders under Section 14 of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFESI Act for short) dated 19.6.2014, petitioner sought review of the said order on 30.7.2014 and due to the prayer in that review application, parties were directed to maintain status quo. That status quo continued to operate and petitioners were shocked when possession was recovered by secured creditor on 25.2.2015. Hence, the office of

Collector was approached and certified copy of the order was received on 25.2.2015. The said order of Collector is undated and it rejected the request of the petitioner for reconsideration on the ground that SARFESI Act does not contain any provision enabling the Collector to undertake such exercise.

Advocate Vaishnav submits that in the meanwhile on 15.2.2014 one of the partners had expired and had the petitioner be given an opportunity, the petitioner could have pointed out these facts to the Collector. He further submits that loss of possession itself is serious prejudice.

Shri Vaishnav submits that the estate of deceased partner who expired on 15.2.2014 could not have been subjected to Section 14 proceedings under SARFESI Act. He is relying on the provision of Section 45 of Indian Partnership Act. Reliance is misconceived. The property which has been taken into possession was secured asset and has been dealt with in accordance with provisions of law.

Learned AGP is seriously opposing the contentions and stated that in absence of any notice, the order of the Collector impugned before this Court refusing reconsideration, cannot be said to be arbitrary or erroneous.

We find that on 19.6.2014 after hearing all the concerned, the Collector had passed orders and directed recovery of possession from the petitioner. The partner had expired before that. There is

no provision in SARFESI Act for review of such order. However, on 30.7.2014 Collector had directed parties to maintain status quo. This order was vacated later on. The later order which has been impugned before this Court appears to be recorded on note-sheet only. It does not carry any date.

However, the reasons recorded therein are neither erroneous nor perverse. As such, we find no case made out warranting interference in writ jurisdiction.

With liberty to petitioner to take such steps as are open in law, we dispose of writ petition. No costs.

Judge

Judge

/TA/