

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5653 OF 2015

Vasant Ajabrao Raut

-vs-

ICICI Home Finance, Mumbai and others

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

Court's or Judge's Orders.

Mr.S.B.Tiwari, counsel for the petitioner.

Mrs.M.H.Deshmukh, AGP for the respondent Nos.3 and 4.

CORAM : SMT. VASANTI A. NAIK &
PRASANNA. B. VARALE, JJ.

DATE : 14.12.2015.

By this petition, the petitioner seeks an order restraining the respondents from dispossessing the petitioner from his immovable property in Hanuman Nagar, Nagpur.

The petitioner is the borrower of the respondent No.1-Bank and since the petitioner had defaulted in making the payment of dues, action was initiated against the petitioner by the respondent No.-1-Bank under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. After issuing the notice under Section 13(2) and (4) of the Act of 2002, an application was filed by the respondent No.-1-Bank against the petitioner under Section 14 of the Act for securing the actual possession. The District Magistrate passed an order under Section 14 of the Act of 2002 on 20/12/2011. It is the case of the petitioner that after the said order was passed, the petitioner paid certain amount to the respondent No.-1-Bank. It is stated that without giving any opportunity to the petitioner to pay the entire dues, the Tahsildar is implementing the order of the District Magistrate.

It would not be proper for this Court to consider granting the relief sought by the petitioner, in exercise of the writ jurisdiction. The order of the District Magistrate, dated 20/12/2012 is not assailed by the petitioner and the same has attained finality. In pursuance of the said order, action is initiated by the Tahsildar for securing the actual possession from the petitioner. If the petitioner is desirous of paying the entire dues to the respondent No.-1-Bank, the petitioner is free to pay the dues and recover his property. In the circumstances of the case, the relief sought by the petitioner cannot be granted.

Since there is no merit in the writ petition, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE