

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12284 OF 2015

M/s. Sakeshwar Gramin Vikas Seva
Sanstha Ltd. Waghmala, Adhmednagar,
Through its Chairman,
Mr. Aniruddha S/o Manik Adsul .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri Anandsing bayas, Advocate for the Petitioner.

Shri S. N. Morampalle, A.G.P. for the Respondent No. 1.

Shri V. D. Hon, Senior Advocate i/by Shri A. V. Hon, Advocate for
Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.**

DATE : 02ND FEBRUARY, 2016.

PER COURT :

. Action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short "Securitization Act") has been taken by the respondent No. 3. The petitioner has filed an application U/Sec. 17 of the Securitization Act, before the Debt Recovery Tribunal, Aurangabad. The application was dismissed in default. The same was subsequently restored, however, stay was not granted and the respondent No. 3/creditor was proceeding further for

taking over the possession of the assets, as such the petitioner has filed the present writ petition. This Court vide order dated 22nd December, 2015, had directed the petitioner to deposit Rs.1,00,00,000/- (Rs. One Crore only) by 31st January, 2016. It is submitted that, out of the said amount Rs. 90,00,000/- (Rs. Ninety Lacs only) are deposited and Rs. 10,00,000/- (Rs. Ten Lacs only) is balance and the same would be deposited by the end of the day with the Bank. The said statement is accepted.

2. On 22nd December, 2015 the petitioner had given a pursis to the Court under the signature of the petitioner giving schedule of payment of Rs. 2,50,00,000/- (Rs. Two Crore and Fifty Lacs only) by 31st March, 2016. Mr. Bayas, the learned counsel for the petitioner states that, it would not be possible for the petitioner to pay the said amount and further time be granted. Mr. Hon the learned Senior Counsel for respondent Nos. 2 and 3 opposes the said request.

3. This Court granted stay to the petitioner considering the bonafides shown to deposit the amount of Rs. 1,00,00,000/- (Rs. One Crore only) by 31st January, 2016 and Rs. 1,50,00,000/- (Rs. One Crore and Fifty Lacs only) by 31st March, 2016, that is by 29.02.2016 another Rs. 50,0000/- (Rs. Fifty Lacs only) and on 31st March, 2016, another Rs. 1,00,00,000/-.

4. Now the petitioner can not deviate from the same. It is not disputed that loan of Rs.5,07,00,000/- (Rs. Five Crore Seven Lacs only) was sanctioned in the year 2010 to the petitioner along with interest. The default was committed in payment of installments, as such, account became non performing asset (NPA), which gave cause of action to the respondent No. 3 to initiate action under the Securitization Act.

5. However, considering the fact that, the petitioner is running college, it would be in nobody's interest, if the Bank takes possession and stalls the further progress. Considering the pursis filed by the petitioner, we rely on the same. However, the application U/Sec. 17 of the Securitization Act, is still pending with the Debt Recovery Tribunal, Aurangabad. There appears to be dispute raised by the petitioner in respect of interest charged on other items. It is for the Debt Recovery Tribunal to consider the same.

6. Considering the above and to adjust the equities of both the parties, we pass the following order.

7. The stay granted by this Court vide order dated 22nd December, 2015, shall continue till the disposal of the Securitization Application No. 41 of 2015 filed by the petitioner on following condition.

I] The petitioner shall deposit an amount of Rs. 10,00,000/- (Rs. Ten Lacs only) by the end of the day with the Bank.

II] The petitioner shall deposit Rs. 50,0000/- (Rs. Fifty Lacs only) by 29th February, 2016.

III] The petitioner shall deposit Rs. 1,00,00,000/- (Rs. One crore only) by 29th March, 2016.

IV] The Debt Recovery Tribunal, Aurangabad shall decide the Securitization Application of the petitioner bearing Securitization Application No. 41 of 2015 within a period of three (3) months from today.

V] Any one default of the aforesaid conditions would result in axiomatic vacation of stay order passed by this Court.

7. The writ petition accordingly is disposed of. No costs.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]