

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 693 OF 2016

- 1 MR. YOGESH GORAL, son of Shri
Nana Goral, aged 32 years,
Indian National, resident of Flat
No. T1/T2, Building 4, Models
Millenium Vistas, Caranzalem,
Panaji- Goa – 403 002. ... Petitioner.

Versus

- 1 STATE OF GOA, through the Chief
Secretary, having Office at
Secretariat, Porvorim, Bardez,
Goa.
- 2 THE DISTRICT MAGISTRATE,
North Goa, Magisterial Branch,
Collectorate Building,
Panaji – Goa – 403 001`
- 3 SMT. KAMLESH MANGAL,
of major age, Indian National,
resident of Building No. 86B/41,
Brindavan Society, Thane (W),
Maharashtra – 400 601.
- 4 SHRI ANAND MANGAL,
of major age, Indian National,
resident of Building No.86B/41,
Brindavan Society, Thane (W),
Maharashtra- 400601.
- 5 SHRI KUSHAL MANGAL,
of major age, Indian National,
resident of Building No.86B/41,
Brindavan Society, Thane (W),
Maharashtra – 400 601
- 6 BANK OF BARODA, through its
Manager, having Office at Panaji-
Goa. ... Respondents.

Shri Rohit Bras De Sa, Advocate for the petitioner.

Shri S. Dhargalkar, Additional Government Advocate for the respondents no.1 and 2.

Shri E. Usapkar, Advocate for the respondent no.6.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 11th August, 2016

ORAL JUDGMENT: (PER F.M.REIS,J)

Heard Shri Rohit Bras De Sa, learned Counsel appearing on behalf of the petitioner, Shri S. Dhargalkar, learned Additional Government Advocate for the respondents no.1 and 2 and Shri E. Usapkar, learned Advocate for the respondent no.6.

2. Rule. Heard forthwith with the consent of the learned Counsel for the parties. Learned Counsel appearing for the respondents waive service.

3. Upon hearing the learned Counsel for the respective parties, the short grievance of the petitioner is that the petitioner is claiming to be a tenant of the subject flat and has filed an application before the District Magistrate, North Goa, at Panaji dated 25/02/2016 opposing any action being taken in terms of Section 14 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

("the SARFAESI Act", for short).

4. It is the contention of the Shri Rohit Bras De Sa, learned Counsel appearing for the petitioner that such an application has not been decided nor any decision taken by the respondent no.2 thereon.

5. Shri E. Usapkar, learned Counsel appearing for respondent no.6 disputes that the petitioner is the tenant as according to him no authentic document has been produced on record to substantiate such claim of the petitioner.

6. The learned Additional Government Advocate for respondents no.1 and 2 states that the respondent no.2 shall decide the said application dated 25/02/2016 and/or any other applications filed by the petitioner on its own merits after hearing all the concerned parties including the petitioner and the respondent no.6 in accordance with law.

7. Considering the said statement of the learned Additional Government Advocate on behalf of the respondent no.2, we find that the grievance of the petitioner at this stage stands redressed. It is made clear that we have not gone into

the merits of the application of the petitioner which would have to be examined by the respondent no.2 on its own merits, after hearing the parties in accordance with law. All the contentions of the parties are left open.

8. The learned Additional Government Advocate points out that the petitioner and the respondent no.6 be directed to appear before the respondent no.2 on 16/08/2016 at 10.00 a.m. Needless to say, the petitioner if he so desirous is at liberty to file documents in support of his application, after furnishing advance copies thereof to the respondents no.2 and 6.

9. Rule stands disposed off accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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