

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 596 OF 2016

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

V e r s u s

1. State of Goa,
through the Chcief 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. Oriental Bank of Commerce,
through its Manager, having its
Branch at Dempo Tower,
EDC Patto Plaza,
Panaji – Goa, 403 001.

... Respondents

Mr. Rohit Bras De Sa, Advocate for the Petitioner.

Mr. P. Dangui, Addl. Government Advocate for the Respondent nos.1 and 2.

Mr. S. N. Joshi, Advocate for the Respondent no. 4.

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

Date : **14th July, 2016**

ORAL JUDGMENT (Per F. M. Reis, J.)

Heard Mr. Bras De Sa, learned Counsel appearing for the Petitioner, Mr. P. Dangui, learned Addl. Government Advocate appearing for the Respondent nos. 1 and 2 and Mr. Joshi, learned Counsel appearing for the Respondent no. 4.

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

3. Upon hearing the learned Counsel appearing for the respective parties, the point for consideration is that the Petitioners had filed an application before the Respondent no. 2 in proceedings under Section 14 of the SARFAESI Act raising an objection to delivery of possession claiming that they are tenants of the subject premises and have to be heard before the passing of such Orders. The said issue which arises for consideration in the present Petition is no longer res-integra in view of the Judgment of the Apex Court reported in **2016 SCC Online SC 64** in the case of **Vishal N. Kalsaria vs. Bank of India & Ors.**

4. Looking into the observations made therein, it cannot be disputed that in proceedings under Section 14 of the SARFAESI Act, the Collector would have to consider the application filed by the Petitioner in accordance with law. Needless to say, that all contentions of both the parties including the claim of tenancy of the Petitioner are left open as the veracity of the allegations made in the above Petition have not been examined by this Court whilst disposing of the above

Petition. The Petition has been disposed off on a short consideration as to whether the Petitioners have a locus to file such application in proceedings under Section 14 of the SARFAESI Act.

5. In view of the above, the Respondent no. 2 shall proceed to examine the application filed by the Petitioner dated 25.02.2016 as expeditiously as possible and, in any event, within three months from today in the light of the observations made herein above after hearing the parties in accordance with law. The Petitioner if advised, is at liberty to file additional documents before the Respondent no. 2 in support of the application with copy thereof to the learned Counsel appearing for the respective parties.

6. All contentions of both the parties are left open.

7. Rule stands disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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