

s

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3853 OF 2014

Rajiv Biharilal Jangid and Others. .. Petitioners
Vs
State of Maharashtra and Another. .. Respondents

—
Shri Prasad L. Bhujbal for the Petitioners.
Mrs. M.P. Thakur, AGP for the Respondent No.1.
Shri Girish R. Agrawal for the Respondent No.2.
—

CORAM : A.S. OKA & C.V. BHADANG, JJ
DATED : 25TH JANUARY 2016

P.C.

1. Heard the learned counsel appearing for the Petitioner. His first submission is that the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the said Act”) are not applicable to the second Respondent which is a co-operative Bank under the Maharashtra Co-operative Societies Act, 1960. His second submission is that prior to the date of the impugned order under Section 14 of the said Act, the Maharashtra State Financial Corporation exercised its statutory powers under Section 29 of the State Financial Corporation Act, 1951 and has taken over possession of the secured assets which are subject matter of the impugned order passed by the learned District Magistrate under Section 14 of the said Act. His submission is that as the secured assets

have been taken over by the Maharashtra State Financial Corporation, the Petitioners are no longer the owners of the secured assets.

2. As far as the applicability to the provisions of the said Act to a Co-operative Bank is concerned, the law has been laid down by a Division Bench of this Court in the case of *M/s. New Hariyana Dal Mill, Nagpur & Others v. Union of India & Others* [2010(1) Mah. LJ. 620]. After considering all its earlier decisions, this Court has categorically held that the notification issued by the Central Government for including a Co-Operative Bank under the purview of Clause (v) of Sub-clause (c) of Sub-section (1) of Section 2 of the said Act is intra vires. The said decision in the case of *New Hariyana Dal Mills* continues to bind this Court.

3. As far as the other challenges on merits are concerned, the Petitioners who are parties to the proceedings before the learned District Magistrate have a statutory remedy under the provisions of the said Act. Hence, we decline to entertain this Petition. The Petition is disposed of by keeping the remedy of the Petitioners expressly open. We, however, make it clear that the issue of applicability of the provisions of the said Act to the second Respondent Bank stands concluded as above.

4. All other contentions on merits are kept open;

5. The learned counsel appearing for the Petitioners seeks continuation of the ad-interim relief. The ad-interim relief which is operative till today is continued for a period of one month from today.

(C.V. BHADANG, J)

(A.S. OKA, J)