

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8735 OF 2016

M/s. Raigad Military School

.... Petitioners

Vs.

Union of India & Others

.... Respondents

Mr. Mayur Khandeparkar i/by Mr. Yogendra M.
Kanchan for the Petitioners.

Mr. Mohamedali M. Chunawala with Mr. P.S. Gujar
for Respondent No.1-UoI.

Mr. O.A. Das with Ms Tejashree S. Gawade for
Respondent No.2-BoI.

CORAM: S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

DATE : JULY 27, 2016

P.C:

1. Having heard Mr. Khandeparkar, appearing for the petitioners, and Mr. Das, appearing for the Bank, we are of the view that the petitioners have an alternate and equally efficacious remedy of either complying with the order passed on 28-3-2016 of the Presiding Officer, Debts Recovery Tribunal-III, Mumbai and taking the proceedings back from this Tribunal for

presentation to the Debts Recovery Tribunal at Pune, or challenge this order before the Debts Recovery Appellate Tribunal.

2. The apprehension is that, on 22-7-2016 an order under Section 14(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was passed by the Collector and District Magistrate, Raigad, Alibaug and pursuant to which possession of the immovable properties, more particularly described at page 49 of the paper-book, would be taken on 28-7-2016.

3. Mr. Das has brought to our notice the fact that this is a second round and in which the petitioners have failed to obtain any relief. He would submit that these are all delaying tactics and the petitioners' so called school is not functional. There is a huge debt of approximately Rs.12,00,00,000/- and if the Bank does not proceed in accordance with law, nothing would be recovered. There is also a Recovery Certificate issued in favour of the Bank by the Debts Recovery Tribunal at Pune.

4. After hearing both sides, we find that the petitioners are not entitled to an unconditional protection against dispossession. We record the statement of Mr. Khandeparkar that within one week from today a sum of Rs.30,00,000/- would be deposited with the respondent-Bank. We are not satisfied only with this deposit. Besides directing that this amount shall be deposited within one week, we also direct that a sum of Rs.70,00,000/- shall be deposited within a period of six weeks thereafter. If these conditions are complied with, the petitioners can approach the Debts Recovery Tribunal within a week thereafter and request for such interim protection as is permissible in law. In the event of default in deposit of the initial sum or the subsequent amount, the Bank shall proceed to take possession of the immovable properties and dispose of the same in accordance with law.

5. To enable the petitioners to comply with the statement of deposit of the initial sum of Rs.30,00,000/-, they shall not be dispossessed on 28-7-2016 in terms of the

communication at pages 48-49 of the paper-book.

6. The writ petition is disposed of.

(DR. SHALINI PHANSALKAR-JOSHI, J.)

(S.C. DHARMADHIKARI, J.)