

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 12264 OF 2016**

Edelweiss Asset Reconstruction
Company Limited, a Company
incorporated under the Companies Act, 1956
and registered as a Securitisation and asset
reconstruction Company pursuant to
section 3 of SARFAESI having its
registered office at Edelweiss House, Off.
C.S.T. Road, Kalina, Mumbai 400 098 as
its own/acting in its capacity as trustee
of the EARC Trust-SC 28.

....Petitioner

Vs.

The State of Maharashtra, Through thereafter
District Magistrare, Pune having his office
at District and Sessions Court Shivaji
Nagar, Pune

....Respondent.

Mr. Rohit Gupta a/w Nikhil rajani i/by V. Deshpande & Co. for the
Petitioner.

Mr. V.N. Sagare, AGP for the State-Respondent.

**CORAM : ANOOP V. MOHTA AND
A.S. GADKARI, JJ.**

DATE : 21 NOVEMBER 2016.

ORAL JUDGMENT (PER ANOOP V. MOHTA, J.):-

Heard finally, by consent of the parties.

2 We are inclined to dispose of the present Writ Petition filed on 31 August 2016, whereby the prayer is restricted to the extent of directing the District Magistrate, Pune to dispose of the Application filed by the Petitioner Bank-Financial Institution under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, “*the SARFAESI Act*”), as the same is pending since March 2016.

3 By keeping all defence/contentions open and as even otherwise in view of the scheme and object of the SARFAESI Act, as amended from time to time and lastly by amendment (44 of 2016) on 1 September 2016, whereby it is necessary for the Chief Metropolitan Magistrate or District Magistrate to expedite the proceedings and pass order once the Application/Petition so filed by the Financial Institutions/Banks is as per the provisions of the Act and Rules made thereunder. The Magistrate required to satisfy the contends of affidavit and pass order of taking possession of the Secured Assets within a period of 30 days from the date of application. Proviso to amended Section 14 reads as under:-

14.

“[Provided further that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days.]

Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.]”

.....

Therefore, the Magistrate, in any case, required to pass final order within thirty days, if such application is in order. By recording reasons in writing, he may extend the time, but not exceeding sixty days in aggregate.

4 Therefore, taking overall view of the matter and by keeping all defence/points open, we are directing the District Magistrate, Pune to decide the Application in accordance with law.

5 Writ Petition is disposed of accordingly. There shall be no order as to costs.

(A.S. GADKARI, J.)

(ANOOP V. MOHTA, J.)