

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 2676 OF 2016
IN
WRIT PETITION NO. 12225 OF 2015**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Ashish Kamat a/w Mr. Mikhil Rajani i/b M/s. V. Deshpande & Co. for the Applicant.
Mrs. Kirit Kulkarni, AGP for the Respondent No.1.
None for the Petitioner.

**CORAM : K. K. TATED, J.
DATED : 24/10/2016**

PC.:

. Heard learned Counsel for the parties.

2 Though the petitioners are duly served, no one appeared on behalf of them, when the matter called out.

3 The learned Counsel for the Applicant filed affidavit of service to show that the petitioners were duly served.

4 This application is preferred by Applicant/Respondent Bank for allowing them to take appropriate steps as per the order dated 04.06.2015 passed by the Court of Chief Metropolitan Magistrate, Esplanade, Mumbai.

5 The learned Counsel for the Applicant submits

that Writ Petition was on board before this Court on 27.07.2015. On that date, the Counsel appearing on behalf of Petitioner made a statement before this Court that they are ready and willing to deposit whatever balance amount is due and payable by them to the applicant Bank. He submits that though the statement was made before this Court on 27.07.2015, till today the Petitioner has not deposited a single pie with the applicant. Hence, they preferred the present Civil Application for allowing them to execute the order dated 04.06.2015. He submits that auctional purchaser of the suit property is insisting for physical possession of the same.

6 The learned Counsel for the Applicant submits that in the present proceeding, the recovery certificate dated 07.04.2014 was issued for sum of Rs.2,11,73,522/-.

7 At this stage, the learned Counsel for the Applicant after taking instructions from his officer who is present in the Court makes a statement that though it is recorded in the order dated 27.07.2015 that the petitioners are ready and willing to deposit whatever amount is balance due, as on today not a single pie is paid by the Petitioner as per recovery certificate issued dated 07.04.2014. Statement is accepted.

8 Considering the fact that though the statement made by the petitioner before this Court that they are ready and willing to deposit the balance amount, they failed and neglected to do so and today though they are already served, no one appeared on behalf of them when the matter called out.

9 Considering this fact, I am satisfied that Applicant has made out case for allowing the Civil Application.

10 Hence, following order is passed:

a) Interim protection granted by this Court by order dated 27.07.2015 is recalled.

b) Applicant is permitted to execute the order dated 04.06.2015 passed by Court of Chief Metropolitan Magistrate, Esplanade, Mumbai.

c) Applicant is free to take appropriate steps according to law to take possession of the suit property.

d) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)