

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12493 OF 2015
ALONG WITH
WRIT PETITION NO.1096 OF 2016

WP NO.12493 OF 2015

Maa Bhanbhoori Steel Industry Pvt. Ltd. and Another.	..	Petitioners
Vs		
Punjab National Bank and Others.	..	Respondents
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WP NO.1096 OF 2016

Mr. Sachin Maheswari.	..	Petitioner
Vs		
Punjab National Bank and Others.	..	Respondents
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Shri M.V. Thorat for the Petitioners in both the Petitions.
Ms. Kalpita Ghosh i/b Intral Legal for the Respondent No.1 in both the Petitions.
Mrs. M.P. Thakur, AGP for the Respondent Nos.2 and 3 in both the Petitions.
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CORAM : A.S. OKA & C.V. BHADANG, JJ
DATED : 15TH FEBRUARY 2016

PC.

1. Not on board. Taken on board.
2. In Writ Petition No.12493 of 2015, the second Petitioner has tendered an undertaking affirmed on 13th February 2016 which is taken on record and marked "A1" for identification. In Writ Petition

No.1096 of 2016, the Petitioner has tendered an undertaking affirmed on 11th February 2016 which is taken on record and marked “A2” for identification.

3. The Petitioner in Writ Petition No.1096 of 2016 is in possession as a Licensee of the flat which is subject matter of order under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the auction under the provisions of the said Act of 2002. The Petitioner in Writ Petition No.1096 of 2016 has given an unconditional undertaking to hand over vacant and peaceful possession of the flat subject matter of these Petitions to the Punjab National Bank which the Respondent. The second Petitioner in Writ Petition No.12493 of 2015 for himself and for the first Petitioner has filed an affidavit dated 13th February 2016 (marked as “A1”) wherein he has stated that he has no objection if the Petitioner in Writ Petition No.1096 of 2016 hands over the vacant and peaceful possession of the said flat to the Punjab National Bank on or before 31st October 2016. He has given undertaking not to create any third party rights, title and interest in respect of the said flat.

4. In view of the undertakings given by the Petitioners, the challenge in both the Petitions does not survive.

5. Accordingly, we dispose of the Petitions by passing the following order:

ORDER :

- (a) The undertakings of the Petitioners in both the Writ Petitions are accepted;
- (b) The action of dispossession of the said flat shall not be taken by the Punjab National Bank till 31st October 2016 subject to condition of the Petitioner in Writ Petition No.1096 of 2016 not parting with possession of the said flat in favour of any third party, save and except the Punjab National Bank;
- (c) The Punjab National Bank shall not take over physical possession of the said flat till 31st October 2016. However, it will be open for the Punjab National Bank to proceed with the auction. Needless to state that the auction purchaser shall not be put in possession till 31st October 2016;

- (d) We make it clear that on failure of both the Petitioners to abide by the undertakings given by them by handing over vacant and peaceful possession of the flat to the Punjab National Bank on or before 31st October 2010, apart from other remedies available to the Punjab National Bank, they will be entitled to take forcible possession of the said flat without any further notice to the Petitioners;
- (e) In the event of the breach as aforesaid, on the application being made by the Punjab National Bank, the officer incharge of the local police station shall grant adequate police protection for the purposes of taking over the possession of the said flat;
- (f) Both the Petitions are disposed of on above terms.

(C.V. BHADANG, J)

(A.S. OKA, J)