

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 1054 OF 2016

Mr. Rajeev Ratanlal Ahuja	}	Petitioner
versus		
The Board of Directors of Bank	}	
of Baroda and Ors.	}	Respondents

Ms. Rohini Amin with Ms. Sarika Gohil
and Mr. C. J. Joveson for the petitioner.

Mr. Anant Shinde i/b. M/s. Anant shinde
and Co. for respondent nos. 1 to 6.

Mr. Mohit Jadhav - AGP for respondent
nos. 7, 8 and 10 to 14.

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

DATED :- APRIL 29, 2016

P.C. :-

The petitioner must decide which advocate has to be engaged in the DRT, Mumbai. It is not for the advocate or the litigant to choose a forum. If for any reason, the petitioner desires to engage Ms. Amin in the DRT, Mumbai, it is then for him to decide as to what steps are to be taken as all presiding officers of DRT, Mumbai are not taking up cases in which she is appearing as an advocate.

2) However, writ petition cannot be entertained as it is directed against the measures under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SERFAESI Act). The action impugned is a notice under section 13(2) thereof and subsequent steps.

3) On hearing both sides, it was clarified that on the date stipulated for taking possession, the bank could not take physical possession of the immovable property. Now, a fresh notice is issued, but the possession will be taken tomorrow on 30th April, 2016 is the apprehension.

4) Since the petitioner desires to approach the DRT in appeal and which is an alternate and equally efficacious remedy, we do not entertain this writ petition, which, even otherwise we cannot entertain in terms of the law laid down by the Hon'ble Supreme Court of India.

5) Since the petitioner has already filed Securitisation Application (L) No. 497 of 2016 before the DRT - III, Mumbai, it is for him to obtain such orders and directions, including in relation to transfer of proceedings, from the In-charge Chairperson of the DRAT at Mumbai. In the present circumstances and when the petitioner is, as claimed, in physical possession of the property,

which is subject matter of the notice under section 14(1) of the SERFAESI Act, we direct that the physical possession thereof should not be taken for a period of four weeks from today and to enable the petitioner to claim such reliefs as are permissible in law. We direct that the petitioner shall not induct any third party or part with possession or transfer the subject property and which is to be proceeded against in terms of the order under section 14(1) of the SERFAESI Act. If the petitioner approaches the DRT within the time specified above, it is open for the DRT to pass such orders as are permissible in law. It is not bound to continue the protection much less unconditionally.

6) The writ petition is disposed of by keeping open all objections of the petitioner.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C.DHARMADHIKARI, J.)