

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

COURT RECEIVER'S REPORT NO. 310 OF 2016

IN

CHAMBER SUMMONS NO. 890 OF 2016

IN

ARBITRATION PETITION NO. 1338 OF 2014

Tata Capital Housing Finance Limited

... Petitioner

Versus

Mr. Anil Kumar Singh & Ors.

... Respondents

*Mr. Mayur Khandeparkar a/w Mr. Tushar Kadam i/b MDP & Partners for the
Petitioner.*

None appeared for the Respondents.

Mr. G. G. Ketkar, 1st Assistant to Court Receiver, present.

CORAM: S.J. KATHAWALLA, J.

DATE: 10th AUGUST, 2016

P.C.

1. By an ad - interim Order dated 11th March, 2014 passed by this Court, the Court Receiver, High Court, Bombay was appointed as Receiver in respect of the mortgaged property as more particularly described at EXHIBIT – “E” to the Arbitration Petition with a direction to take forcible physical possession of the said mortgaged property alongwith police assistance, if required and without prior notice to the Respondents. It was further directed that the Court Receiver shall within two weeks after taking possession give an option to

Respondents to act as agent of the Receiver on usual terms and conditions including payment of royalty and on furnishing security within a period of two weeks after taking possession. In terms of the aforesaid order the Court Receiver took possession of the said mortgaged property on 25th May, 2015 and submitted his report dated 4th June, 2015. The Respondents did not opt for being appointed as agent of the Court Receiver.

2. Thereafter, the Petitioner issued a notice dated 12th January, 2016 to the Respondents under section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI Act, 2002”).

3. The Petitioner states that 60 days have elapsed from the date of the notice under section 13 (2) of SARFAESI Act, 2002 and accordingly, the Petitioner has taken symbolic possession of the said mortgaged property on 6th August, 2016 under Section 13 (4) of SARFAESI Act, 2002 and possession notices have been pasted on the walls of the said mortgaged property. The Petitioner states that the Respondents are absconding since filing of the captioned Arbitration Petition and have not appeared before this Court despite notices and newspaper publications, which records the various orders passed by this Court in the Arbitration Petition.

4. The Petitioner therefore seeks a direction that the Court Receiver be directed to hand over physical possession of the said mortgaged property to the

authorized officer of the Petitioner having regard to the aforesaid measure under Section 13 (4) of SARFAESI Act, 2002, taken by the Petitioner.

5. Having regard to the aforesaid facts, I am satisfied that the physical possession of the said mortgaged property is required to be handed over to the authorized officer of the Petitioner in view of the fact that the Petitioner has already taken measure under Section 13 (4) of SARFAESI Act, 2002. Accordingly, I pass the following Order :-

- (i) The Court Receiver, High Court, Bombay is hereby directed to forthwith hand over possession of the said mortgaged property to the authorized officer of the Petitioner.
- (ii) The Court Receiver's Report is accordingly disposed off.

{S.J. KATHAWALLA, J}