

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3171/2016

(M/s Vidarbha Winding Wires Ltd. and three others vs. The State Bank of India and another)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

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Mr. P.J. Mehta, Advocate for the petitioners
Mr. V.P. Maldhure, Assistant Government Pleader for
Respondent No.2

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATED : 29th June, 2016

Heard.

By this Writ Petition, the petitioners challenge the order of the District Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, permitting the respondent no.1-Bank to secure the possession of the secured assets.

It is not in dispute that the petitioners had secured the financial assistance from the respondent no.1-Bank and, in view of the default, a notice was served on the petitioners, under Section 13(2) of the Act. It is the case of the petitioners that the petitioners sought for certain documents and after the documents were supplied, they had objected to the notice under Section 13

(3) of the Act. The notice under Section 13 (4) of the Act for taking the possession of the secured assets was also served on the petitioners, on 15.7.2015. It is the case of the petitioners that they have challenged the action on the part of the Bank, before the Debts Recovery Tribunal, under Section 17 of the Act. Since the petitioners were not ready to deliver the actual possession of the property to the respondent-Bank, the respondent-Bank filed an Application before the District Magistrate, under section 14 of the Act. The said Application was allowed by the District Magistrate by the impugned order. The petitioners have challenged the said order as also the order rejecting the Review Application in the instant petition.

On hearing the learned counsel for the parties, we find that there is no scope for interference with the the impugned order, in exercise of the writ jurisdiction. The case of the petitioners that it was necessary for the District Magistrate to have considered that the objection raised by the petitioners u/s. 13(3) was not decided, is devoid of merit and the same is liable to be rejected. Admittedly, the notice under sections 13(2) and 13(4) were served on the petitioners. We have perused the affidavit filed by the respondent no.1-Bank before the District Magistrate. All the averments that are required to be made in the affidavit as per the provisions of

Section 14 (1a) of the Act, find place in the affidavit. It appears that the District Magistrate has verified the affidavit filed by the authorised officer of the Bank and has found that the contents thereof are in accordance with the provisions of Section 14(1a) of the Act. The powers of the District Magistrate are not adjudicatory in nature and it would not be for the District Magistrate to consider a dispute between the parties in regard to the decision on the objections filed on behalf of the petitioners.

The order of the District Magistrate under section 14 of the Act appears to be just and proper. We also do not find any fault with the order of the District Magistrate, rejecting the Review Application filed by the petitioners.

Since the order of the District Magistrate is just and proper, we dismiss the Writ Petition, with no order as to costs.

JUDGE

JUDGE

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