

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3302/2016

(M/S VISHAL GINNING **VERSUS** THE AUTHORIZED OFFICER, HDFC BANK LIMITED, MUMBAI)

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

Court's or Judge's orders

Shri R.H. Chandurkar, counsel for the petitioner.
 Shri S.D. Ingole, counsel for the respondent.

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

DATE : JUNE 16, 2016.

By this writ petition, the petitioner has challenged the notice issued by the respondent-H.D.F.C. Bank, dated 07.06.2016 under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 calling upon the petitioner to remain present on 17.06.2016 at 11.30 a.m. and onwards to deliver the possession of the property-secured asset.

Shri Chandurkar, the learned counsel for the petitioner, submits that the petitioner apprehends, on a reading of the notice, that the respondent-Bank has served the notice with a view to take the actual possession of the property with force. It is stated that since the petitioner is not ready to deliver the possession of the property to the respondent-Bank, the respondent-Bank cannot take actual possession of the property by serving a notice under Section 13(4) of the Act. It is stated that since the symbolic possession under Section 13(4) of the Act is not taken, the petitioner is not entitled to file proceedings under Section 17 of the Act before the Tribunal.

Shri Ingole, the learned counsel for the respondent-Bank, states that by the notice dated 07.06.2016, the petitioner has been informed that it should deliver the possession of the property on 17.06.2016 and if it is not willing to do so, only the symbolic

possession would be taken by the respondent-Bank on the said date. It is stated that the apprehension of the petitioner that the actual-physical possession of the property would be forcefully taken from the petitioner in pursuance of the notice is incorrect.

We are not inclined to entertain the writ petition against the notice under Section 13(4) of the Act. Also, in view of the statement made by the learned counsel for the respondent-Bank, the cause for prosecuting the writ petition would not survive. By accepting the said statement, we dispose of the writ petition with no order as to costs.

JUDGE

JUDGE

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