

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

WRIT PETITION NO. 3501/2016

(YOGESH DNYANESHWAR NAGPURE **VERSUS** BANK OF INDIA, NAGPUR)

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

Court's or Judge's orders

Shri N.V. Fulzele, counsel for the petitioners.
 Shri A.M. Joshi, counsel for the Union of India.

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

DATE : JUNE 24, 2016.

By this writ petition, the petitioner seeks a stay to the effect and operation of the notice issued by the respondent under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, till the Presiding Officer takes charge, in the Debts Recovery Tribunal, Nagpur.

It is the case of the petitioner that the petitioner has moved the Debts Recovery Tribunal under Section 17 of the Act after he was served with a notice under Section 13(4) of the Act, dated 27.05.2016. It is stated that after the notice was issued, by a communication dated 10.06.2016 the petitioner was informed that the title-deeds would not be released in favour of the petitioner, till the entire dues are paid. It is stated that there is no Presiding Officer in the Debts Recovery Tribunal at Nagpur and the in-charge Presiding Officer at Mumbai was not ready to hear the petitioner on the stay application.

Shri Joshi, the learned counsel appearing on behalf of the Union of India, states that the selection of the Presiding Officer on the Debts Recovery Tribunal at Nagpur and Aurangabad is made and the file is pending before the D.O.P.T. It is stated that the appointment could be made within a reasonable time as the process is underway. It is further stated that the in-charge Presiding Officer would be likely to have a sitting at Nagpur on 13.07.2016 and

14.07.2016 and as and when, the Presiding Officer has its sitting at Nagpur, the petitioner can move an appropriate application.

We are not inclined to grant the relief sought by the petitioner in this writ petition. We find that by the notice under Section 13(4) of the Act, the symbolic possession of the property of the petitioner is taken. If any order is passed in favour of the respondent on an application under Section 14, the petitioner has the remedy. Also, nothing is placed on record to show that the petitioner had circulated an application before the Presiding Officer having the sitting at Mumbai on 11.07.2016 and despite the application, the Presiding Officer did not take up the petitioner's matter. The petitioner is free to move an appropriate application for urgently hearing the matter of the petitioner on interim relief, if need be.

In the circumstances of the case, we dispose of the writ petition with no order as to costs.

JUDGE

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