

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4646 /2016

(Govind Vithalrao Kawale and another vs. ICICI Bank and two others)

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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

.....
Mr. G.G. Bade, Advocate for the petitioners
Mr. A.A. Madiwale, Asst.Government Pleader for respondent nos. 3

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

DATED : **10th August, 2016**

Heard.

By this Writ Petition, the petitioner challenges the order of the District Magistrate, Yavatmal, dated 5.5.2015 allowing an Application filed by the respondent nos.1 and 2, under Section 14 of the Securitization and Reconstruction of Financial Assets and Security Interest Act, 2002 and directing the petitioners to hand over the possession of the mortgaged property to the respondent nos.1 and 2.

The only ground raised on behalf of the petitioners for challenging the impugned order, dated 5.5.2015, is that the loan amount was huge and due to financial difficulty, the petitioner could not pay the same. It is stated that certain cheques were lying with the respondent-Bank and those cheques could have been encashed. It is stated that these aspects were not considered by the District Magistrate while considering the Application filed by the respondent nos.1 and 2, under Section 14 of the Act.

We do not find any merit in the submission made on behalf of the petitioners for challenging the impugned order. Firstly, we find that the impugned order is challenged very belatedly. The impugned order is passed on 5.5.2015 and the same is challenged by filing this Writ Petition on 1.8.2016. Sufficient cause has not been made out for belatedly filing this petition. Apart from the fact that there is inordinate delay in filing this petition, we find that the impugned order also cannot be faulted with. It would not be for the District Magistrate to consider in the proceedings under Section 14 of the Act, whether the petitioner/debtor was ready to pay the loan and/or whether some cheques were lying with the Bank or not. The District Magistrate is only required to consider whether the Application is made as per the provisions of Section 14 of the Act and an affidavit stating the facts that are required to be stated in the affidavit, in view of the provisions of Section 14 (a) of the Act is filed or not.

Since there is no merit in the challenge to the impugned order, we dismiss the Writ Petition with no order as to costs.

JUDGE

JUDGE

safare

C E R T I F I C A T E

“ I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.”

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