IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

WRIT PETITION NO.3746 OF 2017
(Satish Rambhau Mankar and another ..vs.. Allahbad Bank and another)

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

Shri A.R. Agrawal, Advocate for the petitioners,
Shri A.S. Fulzele, Acting GP for respondent No.2.

CORAM : B.P. DHARMADHIKARI AND ROHIT B. DEO, JJ.
DATED : 23-06-2017

The creditor bank has withdrawn first action and has initiated fresh action. As a part of that action they also took symbolic possession on 01-09-2016. Thereafter they sought physical possession and in those proceedings present petitioners raised objection. Respondent No.1-District Magistrate as on 27-03-2017 passed an order allowing respondent No.1-Bank to take physical possession.

Contention of learned Advocate for the petitioners is during pendency of first proceedings, second action could not have been taken by respondent No.1. First proceedings are a notice in 2014 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, symbolic possession on 03-12-2014 and challenge thereto is in Securitization Appeal No.99/2014 before the Debt Recovery Tribunal. In those proceedings because of conditional order, the petitioners have deposited amount of Rs.7,50,000/- in three installments. Bank thereafter has applied to Debt Recovery Tribunal seeking leave to withdraw this first notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and thereafter has taken symbolic possession again on 01-09-2016.

Before moving for withdrawal, a demand notice was issued on 18-06-2016 by bank.

We do not find any error in the action of bank. No steps to the prejudice of the present petitioners have been taken. Writ petition is, therefore, misconceived. It is dismissed. No costs.

JUDGE **JUDGE**

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