

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

WRIT PETITION NO.3869 OF 2017

(M/s. Rajanandgaon Oil Pvt. Ltd. and others ..vs.. Bank of Baroda and others)

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

Court's or Judge's orders

Shri C.V. Kale, Advocate for the petitioners,
Shri A.T. Purohit, Advocate for respondent Nos.1 and 2,
Shri A.V. Palshikar, A.G.P. for respondent Nos.3 and 4.

**CORAM : B.P. DHARMADHIKARI AND
ROHIT B. DEO, JJ.**

DATED : 23-06-2017

Short submission of learned Advocate Shri C.V. Kale is impugned order dated 16-12-2016 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 enables possession of immovable property described in paragraph No.2 of the order to be taken. He points out that factory and other machinery and structures on said land are not mortgaged and therefore, possession thereof cannot be sought and has not been allowed by impugned order. According to him, in this situation, only symbolic possession of land could have been taken and as that has already been taken, the application under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as filed thereafter and impugned order are unsustainable.

Learned Advocate Shri Purohit submits that bank (respondent No.1) is interested in physical possession only of mortgaged property and that possession is being taken as per law. The petitioners are/were aware that land on which their structures have already come up needed to be encumbered and willingly allowed it to be mortgaged. They cannot now oppose the bank when it seeks possession.

In this situation, we do not find any jurisdictional error or perversity in the order of respondent No.3-Collector. The petition is dismissed. No costs.

JUDGE

JUDGE

adgokar