

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

CAW NO. 2135/2017 IN WRIT PETITION NO. 4910 OF 2012

(M/s. Kamakshi Hotels Private Limited thr. its Director Rajubhai Sajanbhai Odedra vs. The Union of India thr. its Finance Minister, Ministry of Finance & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
ARUN D. UPADHYE, JJ.
SEPTEMBER 20, 2017.**

Heard Shri D.V. Siras, learned counsel for the petitioner, Shri Ulhas Aurangabadkar, learned ASGI for respondent Nos. 1 & 2, Shri K.L. Dharmadhikari, learned AGP for respondent Nos. 3 & 4 and Shri A.M. Ghare, learned counsel for respondent No. 5.

2. In Writ Petition No. 4910 of 2012, action initiated under Section 13(4) of the Securitization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and symbolic possession has been questioned. Writ Petition has been admitted but interim orders have been denied. The matter went to the Hon'ble Apex Court and the Hon'ble Apex Court has not intervened.

3. Now, the secured creditor has moved the Collector and the Collector has on 11.09.2017 passed orders for delivering physical possession to secured creditor. Those orders are questioned in CAW No. 2135 of 2017. There is also a prayer for interim relief.

4. As interim relief is already declined in Writ Petition No. 4910 of 2012, it is apparent that the challenge to said direction dated 11.09.2017 needs to be raised independently by filing appropriate petition.

5. Not only this, we find that the Hon'ble Apex Court has on 12.10.2015 expected High Court and Debts Revenue Tribunal (DRT) to decide the matters pending before them as soon as possible. The petitioner has not brought that order to the notice of this Court till date. Today, for the first time, our attention has been invited to that order.

6. In this situation, we reject Civil Application No. 2135 of 2017 for amendment of the petition, with liberty to the petitioner to file appropriate challenge.

CAW NO. 2136 OF 2017

As in writ petition, this Court has already refused interim relief, for the reasons recorded in CAW No. 2135 of 2017, we reject the present civil application also. No order as to costs.

JUDGE

JUDGE