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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 4915 OF 2018
WITH
CIVIL APPLICATION NO. 1262 OF 2018
IN
WRIT PETITION NO. 4915 OF 2018**

M/s. Suraj Salian Hotels Pvt. Ltd. .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Akash S. Acharya for the Petitioner.
Mrs. Shyama Parkar i/b M/s. M. P. Rege & Co. for the Respondent No.3-Bank.
Ms. Jyoti P. Jadhav, AGP for Respondent No.1-State.

**CORAM : A. A. SAYED AND
K. K. SONAWANE, JJ.**

DATE : 13th JULY, 2018.

P.C.

1. On 19.04.2018 we had granted limited protection to the Petitioner as it was ready to clear all the dues of the Respondent-Bank. Paragraphs 6 to 9 of the said order read as under:

“6. Having heard the learned Counsel for the parties, when we indicated to the learned Counsel for the Petitioner that we are inclined to direct the Petitioner to deposit 50% of the amount of the demand notice under section 13(2) of the SARFAESI Act which is around Rs.4 crores, the learned Counsel for the Petitioner on instructions from Mr. Dhirendra Mulraj Udeshi, Authorized Representative of the Petitioner authorized vide Resolution dated

17 April 2018 stated that the Petitioner is not in a position to pay Rs.2 Crores at this stage, but the Petitioner is willing to handover possession of Room No.104, First Floor, Bharat House, formerly known as (Arun Chambers) Shahid Bhagat Singh Marg, Mumbai which has a market value of about Rs.1 crore to the Respondent Bank. He further stated that the said Room No.104 has independent access and can be occupied exclusively and that the Petitioner would handover possession of the said Room No.104 on 26 April 2018 at 12 noon to the Respondent No.3/Bank. He submitted that there is a running Restaurant of the Petitioner on the Ground Floor of the building which is generating income and the other floors are occupied by protected tenants.

7. We accept the statement of the learned Counsel for the Petitioner recorded above as regards handing over possession of the Room No.28. The Petitioner shall file a written undertaking in this Court by 21 April 2018 that he shall handover physical possession of Room No.104, First Floor, Bharat House, formerly known as Arun Chambers, Shahid Bhagat Singh Marg, Mumbai, on 26 April 2018 at 12 noon to the Respondent No.3/Bank. However apart from handing over possession of Room No.28 to the Respondent No.3/Bank, we direct the Petitioner to deposit a sum of Rs.1 Crore with the Respondent No.3/Bank before the next date.

8. The impugned notice dated 5 April, 2018 shall not be acted upon till the next date.

9. Stand over to 18 June 2018. We make it clear that in the event of failure to deposit the amount of Rs.1 Crore by the next date, the Petition may entail a dismissal order."

2. Despite indulgence being shown to the Petitioner, the Petitioner has failed to deposit the amount as directed.
3. In the circumstances, the Petition is dismissed. No costs.
4. In view of the dismissal of the Writ Petition, the Civil Application does not survive and to stand disposed of.

[K. K. SONAWANE, J.]

[A. A. SAYED, J.]

Arjun
Machhindra
Kadam

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Date: 2018.07.23
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