

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13451 OF 2016
ALONGWITH

WRIT PETITION NO. 13467 OF 2016

M/s. Indiabulls Housing Finance
Limited

....Petitioner

V/s.

Pavan Ramchandra More and
Ors.

.....Respondents

Mr. Rafeeq Peermohideen i/by. Solicis Lex, Advocate for the
petitioner.

Mr. Shivaji A. Masal, Advocate for respondents no.1 to 3.

Mrs. Sushma S. Bhende with Mr. A.P. Vanarase, AGP for
respondent no.4.

Coram : K.K. Tated, &

Sandeep K. Shinde, JJ.

Friday, 5th October, 2018.

P.C. :

1. Heard Learned Counsel for the parties.

2. After arguing for sometime, the Learned Counsel for the petitioner submits that, he has received instructions to withdraw the present Writ Petitions with liberty to file fresh application before the Learned Magistrate under Section 14 of the The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (“Secrutisation Act” for short) for the same cause of action. He further submits that, it remained on the part of the petitioners to disclose some important events before the Learned Magistrate. To that effect, he has given in writing. The same is taken on record and marked 'X' for identification. The same reads as under :

“That the aforesaid two petitions may be disposed off as withdrawn with the liberty being granted to the Petitioner to file a fresh petition before the Ld.District Magistrate,

Nashik (Ld.DM) under section 14 of the Securitisation Act, 2002 for obtaining possession of the secured asset bearing Plot No.2, Mourya Bungalow, General Vaidya Nagar Opposite Mahatma Phule High School, Pakhal Road, Dwarka Nashik in respect of the subject loan agreement Nos. HHLNAS00028955 and HLAPNAS00031196, forming subject matter of the present Writ Petitions, and the two orders dated 20.4.2010 and 4.4.2016 passed by learned counsel for the. DM be formally set aside and the Ld.DM may hear the fresh section 14 application of Securitisation Act, 2002 on its own merits, being uninfluenced by earlier orders dated 20.4.2010 and 4.4.2016. The present Writ Petitions may accordingly be disposed off as withdrawn.”

3. In view of the statement made by the Learned Counsel for the petitioner, the following order is passed :

(a) The Writ Petitions are disposed off as withdrawn.

(b) The orders passed by the Learned District Magistrate dated 20th April, 2010 and 4th April, 2016 are set aside with liberty to the petitioner to file their application under Section 14 of the said Act.

(c) Application under Section 14 of the said Act shall be decided on its own merits.

(SANDEEP K. SHINDE, J)

(K.K. TATED, J)