

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 21065 OF 2018

Aspire Home Finance LimitedPetitioner
V/s.
State of Maharashtra and Ors.Respondents

ALONGWITH
WRIT PETITION NO. 8777 OF 2018

NKGSB Co-op. Bank. Ltd.Petitioner
V/s.
State of Maharashtra and Ors.Respondents

Mr. A.R. Gole a/w. Mr. Sanjay Anabhawane, Advocate for the petitioners.

Mrs. Sushma S. Bhende, AGP for the respondent-State.

Coram : K.K. Tated, &

Sandeep K. Shinde, JJ.

Friday 28th September, 2018.

P.C. :

1. Heard Learned Counsel for the parties.
2. Mr. Gole, Learned Advocate for the petitioner submits

that, their main grievance is that the respondents are not deciding their application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the SARFAESI Act”) on its own merits. He submits that, our High Court in following authorities have held that, it is not the duty of the District Magistrate to insist the Bank to provide documents about payment of stamp duty, 7/12 Extract, Non-Application Certificate etc. Those authorities are as under :

- (I) Kotak Mahindra Bank Ltd Vs. State of Maharashtra and Ors. passed in Writ Petition No. 1273 of 2017 and Writ Petition (St) No. 2233 of 2017 dated 03rd May, 2018 (Bombay High Court O.S.)*
- (ii) Standard Chartered Bank & Ors. Vs. Noble Kumar & Ors., 2013 (2) DRTC 609.*

(iii) S.I.C.O.M. Ltd Vs. District Magistrate and Ors. Passed in Writ Petition No. 2548 of 2009 dated 19th March, 2010 (Bombay High Court, Nagpur Bench).

(iv) Union Bank of India Vs. State of Maharashtra & Ors., reported in 2010 (3) Bankers Journal 939.

(v) International Asset Reconstruct Company Ltd. Vs. Union of India & Ors. Reported in AIR 2011 Bombay 163.

(vi) M/s. Hari Trading Corporation Vs. Bank of Baroda passed in Writ Petition No. 11459 of 2015 and group passed in 23rd February, 2015. (Bombay High Court A.S.)

(vii) Choramandalam Investment & Finance Ltd. Vs. The Additional District Magistrate & Ors., passed in Writ Petition No. 23367 of 2017 dated

22nd March, 2018.(M.P. High Court, Bench at Indore)

(viii)Bank of Maharashtra Vs. Additional District Magistrate & Ors., 2018 (4) ALL MR 353.

(ix)The Saraswat Co-operative Bank Ltd. Vs. The State of Maharashtra and anr., in Writ Petition No. 4344 of 2011 dated 28th July, 2011 (Bombay High Court A.S.)

(x)Housing Development Finance Corporation Ltd. Vs. The State of Maharashtra & Ors. Passed in Writ Petition No. 7543 of 2010 dated 30th August, 2011. (Bombay High Court, A.S.)

3. The Learned Counsel for the petitioner, submits that, after filing the present petition, the respondent accepted their application under Section 14 and it is kept pending for compliance of those things. He submits that, he would place

on record, the copy of that application. He requires some time. On his request, the Registry is directed to place this matter on board on 6th October, 2018.

4. Stand over to 6th October, 2018.

(SANDEEP K. SHINDE, J)

(K.K. TATED, J)