

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

REVIEW PETITION (L) NO.50 OF 2018
 IN
 WRIT PETITION (L) NO.3372 OF 2017
 WITH
 NOTICE OF MOTION (L) NO.557 OF 2018
 IN
 REVIEW PETITION (L) NO.50 OF 2018

...
 Shashikant Ganpat Jogal ...Review Petitioner
 v/s.
 State of Maharashtra & ors. ...Respondents

...
 Mr.Mathew Nedumpara with Ms.Preeti Dambre I/b R.R.Naik for the Review
 Petitioner.
 Mr.Bhupesh Samant for Respondents Nos,2 & 3.
 (Not on Board. Mentioned.)

...
CORAM : A.A. SAYED &
M.S.KARNIK, JJ.

DATED : 7 SEPTEMBER 2018

P.C.:

Inasmuch as it is pointed out that subject property being Flat No.903, Solitaire Co-operative Housing Society Ltd, S.B.Marg, Mahim, Mumbai- 400 016 is not a secured asset and that it is a residential flat and since the impugned order dated 25 April 2018 is only an ad-interim order, by way of indulgence we merely modify the order to the extent of deposit of Rs.80,00,000/- (Rupees Eight lakhs), instead of 50% of the amount of the Recovery Certificate as directed in para 4 of the order dated 25 July 2018.

2. We record the statement of the learned Counsel for the Petitioner, on instructions from Mr.Durvesh Jogal who is stated to be son of the Petitioner, that an amount of Rs.80 lakhs shall be paid within one week from today and that in the event the said amount of Rs.80 lakhs is not paid to the Respondent-Bank within one week, the Petitioner shall hand over possession of the said Flat No.903 voluntarily and without demur or protest on 17 September 2018 at 12 noon to the Respondent-Bank. An Undertaking to above effect of the Petitioner shall be filed by Monday i.e. 10 September 2018 in this Court by 12 noon and intimation of having filed the same shall be given to the learned Counsel for the Respondent-Bank.

3. We make it clear that in the event the Undertaking is not filed by 12 noon and intimation thereof in writing is not given to the learned Counsel for the Respondent-Bank by 12.30 p.m. and/or the amount not paid as directed above, the benefit of this order shall not be available to the Petitioner.

4. In view of the above and since we are informed that the Respondent-Bank is to take possession of the said Flat No.903 on 10 September 2018, the Respondent-Bank shall now defer taking possession

of the said Flat No.903, until the next date. The matter to appear before the Regular Court on **18 September 2018** 'for direction'. We make it clear that we have reviewed only the impugned ad-interim order and needless to say that it will be open for the Regular Court to pass further orders at it deems fit, including order of further deposit considering the fact that the Petitioner has approached this Court directly and has not filed Revision Application, wherein he would be required to make mandatory deposit, as provided under Section 154(2-A) of the Maharashtra Co-operative Societies Act.

5. The Review Petition to stand disposed of accordingly. The Notice of Motion does not survive and to stand disposed of.

(M.S.KARNIK,J.)

(A.A.SAYED, J.)

Uday
Prabhakar
Kambli

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