

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2912 OF 2018

Export Import Bank of India

....Petitioner

V/s.

State of Maharashtra and Ors.

....Respondents

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Ms. Aneesa Cheema I/by. Mr. Charles De'souza,
Advocate for the petitioner.

Ms. Deepali Patankar, Honorary Asstt. to Government
Pleader.

Coram : K.K. Tated, &

Sandeep K. Shinde, JJ.

Wednesday, 10th October, 2018.

P.C. :

1. Heard Learned Counsel for the parties.
2. By this petition under Article 226 of the Constitution of India, the petitioner is seeking

direction against respondent no.2 to decide their Securitisation Application No. 725 of 2017 filed before the Court of Learned Chief Metropolitan Magistrate, Esplanade, Mumbai under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“the SARFAESI Act” for short), as early as possible but in any case within a period of 30 days from the receipt of the order passed by this Court.

3. The Learned Counsel for the petitioner submits that, they have filed Securitisation Application on 13th November, 2017. Thereafter, the matter appeared on several occasions before the Learned Chief Metropolitan Magistrate. On one hand, she submits that the same was adjourned. However, she submits that on many occasions, the Court of the Learned Chief Metropolitan Magistrate was shown as

vacant. She further submits that, an application under Section 14 of the SARFAESI Act is required to be decided maximum within 60 days from the date of filing. Hence, in the interest of justice, this Hon'ble Court be pleased to direct the concerned Chief Metropolitan Magistrate to decide their application, as early as possible but in any case, within 30 days from the receipt of the order of this court.

4. The learned Counsel for the Petitioner relies on a copy of the order passed by the Division Bench of this court dated **10.10.2016 in Writ Petition No.1221/2015 (Kotak Mahindra Bank Ltd. Vs. The State of Maharashtra & Ors.)** and order dated **23.01.2017 in Writ Petition No.645/2017 (L & T Housing Finance Ltd. Vs. The State of Maharashtra & Anr.)** and states that this court had directed the learned Magistrate to decide the

Application u/a.14(1) of the said Act as early as possible.

5 The learned Counsel for the Petitioner invites our attention to the recent amendment, which has been inserted in section 14 of the said Act. There are provisos now incorporated below clause (ix) of Sub-section (1) of Section 14 of the said Act. The second proviso now mandates that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within a period of 30 days, for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period, but not exceeding in aggregate 60 days. He submits that bare reading of section 14 of the said Act shows that the Authority should endeavor to dispose of the Application within a period of 30 days from the date of its receipt. Act 44 of 2016, by which these amendments are inserted, has now been brought

into force. With the two provisos, now there is a mandate to dispose of such Applications as are brought under sub-section (1) of section 14 of the said Act within a particular time.

6. Considering the submissions made by the learned counsel for the Petitioner, the orders dated 10.10.2017 and 23.01.2017 passed by this court, and the amended provisions of Section 14 of the said Act, we are of the opinion that the Petitioner has made out a case for allowing the Writ Petition.

7. Hence, following order is passed:

a. The Learned Chief Metropolitan Magistrate and/or in-charge Court and/or Additional Chief Metropolitan Magistrate to make endeavor to dispose of Securitisation Application No. 725 of 2017 before whom same is pending, as early as

possible and preferably within 30 days from the date of receipt of writ along with this order.

b. Parties to act on an authenticated copy of this order.

c. Writ Petition stands disposed accordingly.

(SANDEEP K. SHINDE, J)

(K.K. TATED, J)