

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4389 OF 2019

M/s R.K. Industries

Petitioner

Versus

The Authorized Officer,
Central Bank of India and another

Respondents

Mr.S.S. Gangakhedkar advocate for the petitioner

Mr.N.T.Tribhuvan h/f Mr. K.B. Deshpande, advocate for Respondent No.2

CORAM : **PRASANNA B. VARALE & NITIN W. SAMBRE, JJ.**

Date: April 08, 2019

PER COURT :-

- 1 Heard learned counsel appearing for the petitioner.
- 2 Considering the peculiar facts of the instant case and in the backdrop of the submissions of the learned counsel, the petition is disposed of by protecting the petitioner for a limited period.
- 3 It is admitted by the learned Advocate Mr. S.S. Gangakhedkar for the petitioner that, pursuant to the possession notice, possession of the property has already been taken. The learned counsel submitted before us that, the petitioners have approached the competent forum viz. Debts Recovery Tribunal, Aurangabad by filing an application along with interlocutory application. Due to non-availability of the Presiding Officer of the Tribunal at Aurangabad, an additional charge is handed over to the Tribunal at Pune. It was submitted before us by the learned

counsel Mr. Gangakhedkar that, the tribunal is sitting at Pune for a week and then at Mumbai for another week considering the large number of applications filed before the Tribunal from Aurangabad, Pune and Mumbai.

4 As the petitioner was having urgency in the matter and interlocutory application was also submitted to the Tribunal, the petitioner, by praecipe dated 14.3.2019, requested the Tribunal to place the matter before it on 26.3.2019. The petitioner was hopeful that on the scheduled date, the tribunal would hear the application, but unfortunately, the application could not be heard by the tribunal on the scheduled date and the petitioner was prompted to submit a request to the Tribunal on 27.3.2019 for placing the matter on 1.4.2019. Mr. Gangakhedkar, learned counsel for the petitioner submits that though the request was made for circulating the matter on 1.4.2019, the matter was not circulated before the Tribunal, as such, petitioner was left with no option but to approach this Court and is praying for protection in view of apprehension that the respondent No.2 may take further steps in view of the possession notice. If such further steps are taken by respondent No.2, the exercise of the petitioner availing the remedy, approaching competent forum or approaching this Court, would be nothing but a futile exercise.

5 Considering this aspect, without going into the merits of the claim or rival claim by the petitioner or the respondents, we

deem it appropriate to dispose of the petition, permitting the parties to approach the Tribunal, seeking fixed date of hearing of the applications. On grant of such date, parties to extend cooperation for hearing of the applications, more particularly interlocutory application by the Tribunal on the scheduled date. We direct respondents not to take further steps pursuant to the possession notice till the tribunal decides the interlocutory application.

6 Petition is disposed of with above referred directions.

7 Authenticate copy of this order be issued to the learned Advocate for the petitioner and the learned counsel for respondent Nos.1 and 2.

(NITIN W. SAMBRE, J)

(PRASANNA B. VARALE, J)

vbd