

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.909 OF 2019

M/s. Shirka Constructions,
represented by its Proprietor,
Shirish Kamat, major, Indian National,
Having its Office at C-6, Vishal
Apartments, behind Vishant Theatre,
Aquem, Margao, Goa.

..... Petitioner.

Versus

1) The State of Goa
through its Chief Secretary,
Secretariat, Porvorim, Goa.

2) The Additional District Magistrate-I,
South Goa, Mathany Saldhana Complex,
Margao, Goa

3) The Mamlatdar of Salcete,
South Goa, Mathany Saldhana Complex,
Margao, Goa

4) Canara Bank,
through the Chief Manager,
ARM Branch, Mathias Plaza,
18 June Road, Panaji, Goa.

..... Respondents.

Mr. Nigel da Costa Frias, with Mr. Laxmi Sawant, Advocate for the
Petitioner.

Mr. Manish Salkar, Government Advocate for Respondents No.1, 2
and 3.

Mr. Ravi Gawas, Advocate for Respondent No.4.

***Coram : M.S. Sonak &
Nutan D. Sardesai, JJ.***

Date : 18th October, 2019.

Oral Judgment:- (Per M. S. Sonak, J)

Heard Mr. Costa Frias for the Petitioner, Mr. Manish Salkar, learned Government Advocate for Respondents No.1 to 3 and Mr. Ravi Gawas for the Respondent No.4-Bank.

2. Rule. Rule made returnable forthwith with the consent and at the request of the learned Counsel for the parties.

3. The challenge in this Petition is to the order dated 27/08/2019 made by the Additional District Magistrate, South Goa, Margao disposing of the application dated 14.12.2018, under Section 14(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (said Act), made by Respondent No.4-Bank.

4. Ordinarily, we are most reluctant to entertain such petitions, because the Petitioners have an alternate and efficacious remedy available to them under the provisions of the said Act, before the DRT. However, in the peculiar facts of the present case where we find that that there is a gross breach of the principles of natural justice, we are inclined to entertain the present petition.

5. The record indicates that the matter was placed for hearing before the Additional District Magistrate on 3.7.2019 and thereafter adjourned to 8.8.2019. On 8.8.2019, the Additional District Magistrate was not present and, therefore, the matter was adjourned to 30.8.2019. However, before the said date, the impugned order dated 27.8.2019 came to be made, without afford of opportunity in fact, to both, the Petitioner, as well as Respondent No.4-Bank. In these circumstances, we are satisfied that the impugned order is required to be set aside and the matter restored to the file of the Additional District Magistrate for disposal after afford of opportunity hearing to both, the Petitioner as well as Respondent No.4-Bank. Accordingly, we direct so

6. Parties, *i.e.* the Petitioner and Respondent No.4 to appear before the Additional District Magistrate on 24.10.2019 at 11 a.m. We clarify that neither of the parties should seek adjournments on the said date. The Additional District Magistrate, if convenient, to afford opportunity of hearing to both the parties on the said date itself. Otherwise, the Additional District Magistrate to fix some other appropriate and convenient date for afford of opportunity of hearing.

7. We direct the Additional District Magistrate to dispose of the application under Section 14 of the said Act as expeditiously as possible and, in any case, on or before 30.11.2019.

8. Rule is made absolute in the aforesaid terms. There shall be no order as to costs. We clarify that we have not gone into the rival contentions and, therefore, all contentions of all parties are left open.

9. All concerned parties to act on the basis of an authenticated copy of this order.

Nutan D. Sardesai, J.

M.S. Sonak, J.