

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO.1724 OF 2019

Manisha Pradeep Kanagali & Anr. v/s. The Bank of Baroda & Ors.		...Petitioners ...Respondents
--	-----------------------------------	--

Mr.Chandraprakash K. Tripathi for the Petitioners.
 Mr.Rohan Mahadik for Respondents Nos.1 & 2.

...
CORAM : A.A. SAYED &
RIYAZ IQBAL CHAGLA, JJ.
DATED : 21 JANUARY 2019

P.C.:

The Petitioner claims to have purchased a property bearing CTS No.28/214, final Plot No.214 and 215 of Town Planning Scheme No.1 of Lonavala, admeasring 1018/50 sq.meters situated at Village Tungarli within the limit of Sub Registrar Lonavala, Pune sometime in the year 2012. According to the Petitioners, they have been duped by the Respondents Nos.3 to 5 and it is only in the year 2013 that the Petitioners came to know about the loan which was taken by the Respondent No.3 to 5 from the Respondent No.1-Bank by executing equitable mortgage of the aforesaid property.

2. The Petitioners had filed Securitization Application (SA) before the DRT, Pune in the year 2015. It appears that the said SA was dismissed for default on 22-09-2017. We are informed that an Interim Application is already taken out in the said SA within a period of limitation for restoration of the SA.

3. It appears that the Respondent No.1-Bank has obtained an order on 14-11-2018 under section 14 of the SARFAESI Act and a notice dated 7-01-2019 has been issued for taking over physical possession of the said property on 22-01-2019 (i.e. tomorrow).

4. The grievance of the Petitioners is that though the learned Counsel for the Petitioners had moved before the DRT on 16-01-2019 for grant of ad-interim/interim reliefs, the DRT has simplicitor adjourned the matter to 19-02-2019 without passing any order.

5. Considering the facts and circumstances of the case, we are of the view that, in the interest of justice, the Petitioners are required to be given an opportunity to seek appropriate reliefs before the DRT, where their Applications are pending, i.e. Application for restoration of SA and Interim Application No.55 of 2019 challenging the order dated 14-11-2018 of the District Collector under section 14 of the SARFAESI Act. In the circumstances, we pass the following order:

ORDER

(i) The Respondent No.1-Bank shall defer taking possession of the secured asset viz. property bearing CTS No.28/214, final Plot No.214 and 215 of Town Planning Scheme No.1 of Lonavala, admeasuring 1018/50 sq.meters situated at Village Tungarli within the limit of Sub Registrar Lonavala, Pune until 28 February 2019.

(ii) The DRT, Pune to decide both the Applications i.e. Application for restoration of SA and Interim Application No.55 of 2019 challenging the order dated 14-11-2018 of the District Collector within a period of four weeks from today.

6. We clarify that we have not gone into the merits of the matter and the DRT may pass orders as it deems appropriate. The Petitioners are granted liberty to move the DRT and place a copy of this order before the DRT.

7. The Petition is disposed of in the aforesaid terms.

(RIYAZ IQBAL CHAGLA,J.)

(A.A.SAYED, J.)