

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION STAMP NO. 16551 OF 2019

Nkgsb Co-op. Bank Ltd. Through Auth.

Signatory

V/S

State Of Maharashtra And Ors.

...Petitioner

...Respondents

Mr Siddharath Samantaray a/w Ms. Dimple Tejani i/by Mr.Sanjay Anabhawane for Petitioner.

Mr. V.S. Gokhale, B Panel Counsel of State/R. No. 1 to 4.

Mr.Shrikant Bhilare i/b A.Patei & Associates for the Respondents Nos.5 to 7.

CORAM : A.A. SAYED &

PRAKASH D. NAIK, JJ.

DATED : 24 SEPTEMBER 2019

P.C.:

The substantive prayer in the Writ Petition reads as follows:

(2) Premises No.8, admeasuring about 860 sq.ft. Built up area, in the building known as “SHIRIN CO-OPERATIVE HOUSING SOCIETY LTD.”, standing on piece & parcel of land bearing Tikka No.12, CTS No.214 & CTS No.1/14, 1/15, Final Plot No.433 & 435, Old Agra Road, Village Panchpakhadi, Taluka & District–Thane, within the limits of Thane Municipal Corporation, Premises No.9, admeasuring about 720 Sq. ft. build up area, in the building known as “SHIRIN CO-OPERATIVE HOUSING SOCIETY LTD.”, standing on piece & parcel of land bearing Tikka No.12, CTS No.214 & CTS No.1/14, 1/15, Final Plot No.433 & 435, Old Agra Road, Village Panchpakhadi, Taluka & District – Thane,

*within the limits of Thane Municipal Corporation, Premises No.18, admeasuring about 120 Sq. ft. built up area, in the building known as “**SHIRIN CO-OPERATIVE HOUSING SOCIETY LTD.**”, standing on piece & parcel of land bearing Tikka No.12, CTS No.214 & CTS No.1/14, 1/15, Final Plot No.433, 435, Old Agra Road, Village Panchpakhadi, Taluka & District – Thane, within the limits of Thane Municipal Corporation, Premises No.19, admeasuring about 275 Sq. ft. built up area, in the building known as “**SHIRIN CO-OPERATIVE HOUSING SOCIETY LTD.**”, standing on piece & parcel of land bearing Tikka No.12, CTS No.214 & CTS No.1/14, 1/15, Final Plot No.433, 435, Old Agra Road, Village Panchpakhadi, Taluka & District–Thane, within the limits of Thane Municipal Corporation, Premises No.20 admeasuring about 655 Sq. ft. built up area, in the building known as “**SHIRIN CO-OPERATIVE HOUSING SOCIETY LTD.**”, standing on piece & parcel of land bearing Tikka No.12, CTS No.214 & CTS No.1/14, 1/15, Final Plot No.433, 435, Old Agra Road, Village Panchpakhadi, Taluka & District–Thane, within the limits of Thane Municipal Corporation, Premises No.21 admeasuring about 380 Sq. ft. built up area, in the building known as “**SHIRIN CO-OPERATIVE HOUSING SOCIETY LTD.**”, standing on piece & parcel of land bearing Tikka No.12, CTS No.214 & CTS No.1/14, 1/15, Final Plot No.433, 435, Old Agra Road, Village Panchpakhadi, Taluka & District–Thane, within the limits of Thane Municipal Corporation, Premises No.22 admeasuring about 635 Sq. ft. built up area, in the building*

*known as “**SHIRIN CO-OPERATIVE HOUSING SOCIETY LTD.**”, standing on piece & parcel of land bearing Tikka No.12, CTS No.214 & CTS No.1/14, 1/15, Final Plot No.433, 435, Old Agra Road, Village Panchpakhadi, Taluka & District–Thane, within the limits of Thane Municipal Corporation, within directions to the concerned Police Station to grant police assistance for taking physical possession of the secured asset;”*

2. The order of the Respondent No.2 District Magistrate is dated 19th October, 2018 and passed under the provisions of Section 14 of the SARFAESI Act.

3. The relevant provisos to Section 14 reads as under :

“Provided further that on receipt of the affidavit from the Authorised Officer, the District magistrate or the Chief Metropolitan magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets within a period of thirty days from the date of application;

Provided also that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty 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 aggregating sixty days.”

4. The District Magistrate or the Chief Metropolitan Magistrate is therefore required to pass orders for the purpose of taking possession of the secured asset within a period of 30 days from the date of the Application and at the highest within 60 days. In the present case, the order under section 14 has been passed as far back as on 19 October 2018, but the same has so far not been implemented. The entire object of the time-lines prescribed for passing orders under section 14 so as to take physical possession of the secured asset expeditiously is defeated, if the said order is not implemented expeditiously by the Respondents Nos.3 & 4.

5. In the circumstances, we direct the Respondents Nos.3 & 4 to ensure that the order dated 19 October 2018 of the District Magistrate under section 14 of the SARFAESI Act is implemented on or before 11 November 2019.

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

(PRAKASH D. NAIK,J.)

(A.A.SAYED, J.)