

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7058 OF 2019

Hariprasad Choksey.

..Petitioner.

Versus

Mandal Adhikari Belapur and Another.

..Respondents.

Ms. Asmita S. Manchandana for the Petitioner.

Mr. Vijaykumar B. Dighe for Respondent No. 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **July 4, 2019.**

P. C. :

1. the Petitioner has approached this Court seeking following reliefs :

“(b) That this Hon'ble Court to issue a writ of certiorari/ mandamus and/or a writ in the nature of certiorari/ mandamus and/or any other appropriate writ, order and/or direction to quash and set aside the Notice No. 254/2018 dated 15/06/2019 issued by Respondent No. 1 for seizure and possession pursuant to ex-party recovery certificate dated 08/02/2018.

(c) That this Hon'ble Court to issue a writ of certiorari/ mandamus and/or a writ in the nature of certiorari/ mandamus and/or any other appropriate writ, order and/or direction restraining Respondent No. 1 from seizure and

possession of the factory premises of the Petitioner situated at Plot No.168, Sector-25, Udyog Nagar, Opp. Nocil naka, Navi Mumbai-400701 pursuant to ex-party recovery certificate dated 08/02/2018.”

2. With the assistance of the learned counsel for the Petitioner and the learned counsel for Respondent No.2 – bank, we have perused the petition and the reliefs sought therein. The Petitioner has challenged the notice dated 15th June 2019, by which the Circle Officer, Belapur has requested the Dy. Commissioner of Police, Navi Mumbai to provide police assistance for taking possession of the premises of the Petitioner in pursuance of the certificate issued under section 101 of the Maharashtra Co-operative Societies Act, 1960. It is also noted by us that in respect of the same property, the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 have already been initiated and the learned counsel for the Respondent-bank informs this Court that possession of the said premises is already taken by following the procedure under the said Act. Not only this, the Petitioner has approached the Debt Recovery Tribunal under section 17 of the SARFESI Act, 2002, assailing the said

order. In such circumstances, the reliefs sought by the Petitioner for quashing the impugned order is not sustainable and petition has been rendered infructuous. Resultantly, the same is dismissed as infructuous with no order as to cost.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]