IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3951 OF 2019

M/s. Govindparva Agro Products
Pvt. Ltd. & Ors. .. Petitioners

Vs.

The Solapur District Central
Co-op. Bank Ltd. & Ors. .. Respondents

...

Mr. K. J. Patil for the petitioners.

Mrs. A.S. Pai, A.P.P. for the State.

CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.

DATED : 02nd AUGUST, 2019.

P.C:-

1. The petitioners, who have unsuccessfully challenged the order passed against them under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("**the Securitization Act**") and who had approached the DRAT which had vacated the order of status quo by its order dated 26/03/2019 after taking note of the report of the Commissioner, have invoked the writ jurisdiction of this court seeking an unusual relief viz. the respondent bank which is the secured creditor, should not be given the police assistance for

taking possession of the secured assets.

2. Learned counsel for the petitioners does not dispute the factual aspect that they had obtained a loan from respondent-bank, which they were unable to pay. Resultantly, the bank initiated measures under Section 13(4) of the Securitization Act seeking possession of the secured assets. The Magistrate allowed the Application under Section 14 of the Securitization Act on 11/04/2014 and directed the Tahsildar, Karmala to give possession of the subject property and report to the Magistrate within 7 days. This order was challenged by the petitioners before the DRT, however, no stay was granted by the DRT, and, therefore, the petitioners have approached the DRAT. The DRAT directed maintenance of status quo for a limited period however, on 26/03/2019, it vacated the status quo order.

3. The petitioners now claim that if the respondent-bank intends to take possession, it will have to approach the District Magistrate under Section 14 of the Act and only through the Magistrate's order, the assistance of the police officer can be sought for taking possession of the secured assets.

On perusal of the scheme contained in the Securtization Act, we are of the clear opinion that the contention of the learned counsel in the petitioner is highly misconceived. Section 13 of the Securitization Act deals with enforcement of security interest and, in terms of Section 14, where possession of the secured assets is required to be taken by the secured creditor or it is to be required to be sold or transferred under the provisions of the Securitization Act, the secured creditor may for the purpose of taking possession or control of such secured assets, can request in writing to the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction the secured assets are found and, on such request being made, the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall take possession of the said assets and documents relating thereto and forward the same to the secured creditor. The section, in detail, sets out the procedure to be followed by the Magistrate and in terms of sub-section (2) of Section 14 of the Securitization Act, the District Magistrate may take or cause to take such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.

4. We notice that in the present case, the petitioners with a

dishonest intention are taking advantage of the time gap when they approached the DRAT and obtained certain orders in their favour. The Magistrate has already passed an order on 11/04/2014. However, the order is not yet implemented though it clearly shows that on 29/10/2015 the Collector had passed an order and accordingly the Tahsildar drew a panchnama and gave possession of the secured assets by handing over the possession receipt thereof to the respondent bank. Thus, when such procedures are completed long back in 2015, the possession of the petitioners can only be termed as illegal. Though the reports of the Commissioner records that the petitioners are in possession, in the light of the fact that the order is already passed in the year 2014 and even the DRAT has refused to continue with the possession of the petitioners and it vacated the status quo, in such circumstances, we do not think that the grievance of the petitioners raised before us can be entertained in the light of the statutory scheme contained in the Securitization Act. Resultantly, we dismiss the writ petition with no order as to costs.

(SMT. BHARATI H. DANGRE, J.) **(RANJIT MORE, J.)**

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