

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION (STAMP) NO. 26510 OF 2019

Central Bank of India

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

Mr. Meghnath Navlani for the Petitioner.

Mr. Mayank Bagla a/w. Mr. Jayesh Rathod i/b Mr. Jayesh Rathod for Respondent No.5.

Ms. Nisha Mehra, AGP for Respondent Nos.1 to 4-State.

**CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATE : 6th NOVEMBER, 2019.

P.C. :

1. Heard learned Counsel for the parties.
2. The 5th Respondent obtained a credit facility from the Central Bank of India and created equitable mortgage of a residential bungalow on Plot No. 42, Ashwin Sector, Simhasth Nagar, CIDCO, Nashik. There being a default, the Bank took recourse to SARFAESI Act, 2002 and obtained an order under Section 14 from the District Magistrate on 26.11.2018. The Tahasildar was appointed as the authorized officer to take possession of the flat who informed the Bank that in view of an order dated 15.12.2018 in R.C.S.No.593/18 he was unable to do so. The said order has been passed in a suit filed by one Vijay Hariprasad Agrawal against Respondent No.5 on the plea that the suit property, which is a secured property to the bank, had been let out to him by

Respondent No.5 who was threatening to dispossess the Plaintiff. The injunction order restrained the Respondent No.5 (the Defendant of the suit) from dispossessing the Plaintiff from the suit property. The order of injunction cannot be read as prohibiting the implementation of the order dated 26.11.2018 passed by the learned District Magistrate declaring as above.

3. We dispose of the Petition directing the Tahasildar, Nashik to implement the order and not to further delegate to the Entertainment Duty Inspector, Nashik. The Tahasildar shall enforce the order dated 26.11.2018 de hors the order dated 15.12.2018 passed in R.C.S. No. 593/2018. No costs.

4. Compliance shall be made by the Tahasildar, Nashik within three weeks from today.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

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by Arjun M.
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2019.11.07
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