

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION STAMP NO.27729 OF 2019

Bank of India

..Petitioner

Versus

State of Maharashtra & Anr.

..Respondents

None for the Petitioner.

Ms. Nisha Mehra, AGP for the Respondent - State.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 2nd DECEMBER, 2019

P.C.

1] Though none appears for the Petitioner to render any assistance to this Court, we have perused the pleadings in the Petition.

2] Grievance is to the impugned order dated 04.04.2018 passed by the learned District Magistrate, Sindhudurg rejecting Petitioner's application under Section 14 of the SARFAESI Act, 2002 and as result refusing to appoint an officer to take physical possession of the secured asset being land and buildings, fittings and fixtures on land bearing S. No.26 (104) H. No.14 area 0.11 ha & S. No.26 (104) H. No.20 area 0.09 ha at Ombal, Taluka Devgad, District Sindhudurg.

3] Case of the Petitioner is that an equitable mortgage by

deposit of title deeds was created and the impugned order dated 04.04.2018 proceeds on the basis that the Petitioner did not file any document to establish the mortgage.

4] Review of the order sought has been dismissed vide order dated 31.07.2018 on the reasoning that the learned District Magistrate did not have the power to review.

5] Since the order dated 04.04.2018 does not deal with the Petitioner's contention that the title documents are in its possession, we dispose of the Petition setting aside the order dated 04.04.2018 as also the subsequent order dated 31.07.2018. We restore the application filed by the Petitioner under Section 14 of the SARFAESI Act, 2002 with a direction that the 2nd Respondent shall re-decide the same and while re-deciding shall specifically deal with whether the Petitioner has produced before it the title deed documents, for the reason equitable mortgage is created by deposit of title documents.

6] Necessary orders shall be passed within six weeks on receipt of an authenticated copy of the present order.

Balaji G.
Panchal

Digitally signed by
Balaji G. Panchal
Date: 2019.12.02
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SMT. BHARATI DANGRE, J

CHIEF JUSTICE