

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION STAMP NO.29138 OF 2019

Mr. Vijay Vitthal Harpale & Anr.

..Petitioners

Versus

Authorised Officer

AU Small Finance Bank Ltd. & Ors.

..Respondents

Mr. S. S. Kanetkar, Advocate for the Petitioners.

Mr. Vivek Patil i/by Vivek Patil & Associates, Advocate for the Respondents.

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

DATE : 25th NOVEMBER, 2019

P.C.

1] This is a frivolous Writ Petition.

2] The 2nd Respondent had advanced a credit to Petitioner No.1. Petitioner No.2 had mortgaged the subject property. There being default in repayment of the loan, enforcing the security the 2nd Respondent obtained an order on 16.03.2018 from the District Magistrate under Section 14 of the SARFAESI Act, 2002. The Tahsildar was appointed as the officer to take possession of the secured asset. The Tahsildar took physical possession of the secured asset on 14.11.2018 evidenced from the Panchanama drawn up. The property was put to auction. The 3rd Respondent has purchased the property.

3] The Petitioners are aggrieved by an order dated 08.11.2019

passed by learned DRT in Interlocutory Application No.1530 of 2019 praying that the Petitioners be not dispossessed from the property secured. The application has been dismissed.

4] In the application as also in the Writ Petition it is pleaded by the Petitioners that the movables in the property are huge and would require 15 days time to be removed.

5] From the Panchanama drawn up by Tahsildar on 14.11.2018, it is apparent that the physical possession of the secured asset was taken over by the Tahsildar.

6] It is apparent that there are no goods of the Petitioners which are lying in the secured asset. We find that the Petitioners are threatening the auction purchaser, and the Bank has sought police assistance so that the auction purchaser could be put in possession of the secured asset which has been sold. It is apparent that the Petitioners are intimidating the auction purchaser.

7] We dismiss the Petition imposing cost in sum of ₹ 15,000/- on the Petitioners to be paid to the 2nd Respondent. We direct Police Station In-charge where subject property is situated to provide police assistance so that Respondent No.2 can put Respondent No.3 in physical possession of the flat in question.

Balaji G.
Panchal

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Balaji G. Panchal
Date: 2019.11.25
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SMT. BHARATI DANGRE, J

CHIEF JUSTICE

BGP.