

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION STAMP NO.29223 OF 2019

M/s. Vaishnavi Exports and Imports Co. & Ors. ..Petitioners
Versus
State of Maharashtra & Anr. ..Respondents

WITH
WRIT PETITION STAMP NO.29224 OF 2019

Magdha Creative Merchant LLP & Ors.	..Petitioners
Versus	
State of Maharashtra & Anr.	..Respondents

WITH
WRIT PETITION STAMP NO.29226 OF 2019

Mr. Ramesh Paras Singh & Anr.	..Petitioners
Versus	
State of Maharashtra & Anr.	..Respondents

Mr. Ashok M. Saraogi a/w Mr. Sachin Upadhyay, Mr. Aniket Sharma & Ms. Shweta Valecha i/by Prajot H. Jaggi, Advocates for the Petitioners in all Writ Petitions.

Mr. K. S. Thorat, AGP for the Respondent No.1 – State in all Writ Petitions.

Ms. Jinelle Gogri a/w Mr. Vikrant Makhare i/by Negandhi Shah & Himayatullah, Advocate for the Respondent No.2 – Punjab National Bank in all Writ Petitions.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 25th NOVEMBER, 2019

P.C.

1] With consent of parties, we dispose of the three Writ Petitions requiring Punjab National Bank to file rectification applications before the Chief Metropolitan Magistrate, Mumbai in Case Nos.373/SA/2019, 374/SA/2019 and 375/SA/2019 for the reason three separate orders dated 29.08.2019 have been passed on applications filed by Punjab National Bank. The parties in Case No.373/SA/2019 impleaded as Respondents are Mr. Ramesh Paras Singh and Mrs. Geeta Ramesh Singh. Parties impleaded in Case No.374/SA/2019 are M/s. Magdha Creative Merchant LLP, Mr. Ramesh Paras Singh and Mrs. Geeta Ramesh Singh. Respondents in Case No.375/SA/2019 are M/s. Vaishnavi Exports and Imports Co., Mr. Ramesh Paras Singh and Mrs. Geeta Ramesh Singh. Property in respect whereof Court Commissioner has been appointed to take physical possession of land in Case No.373/SA/2019 are i) Flat No.101, Panorama LBS Road, Opp. R City Mall, Ghatkopar, Mumbai, ii) Flat No.1203, 12th Floor, Vista-3, LBS Road, Opp. R City Mall, Ghatkopar, Mumbai and iii) Flat No.1703, in the same building. The property which has to be taken physical possession in Case No.373/SA/2019 are flat Nos.1203 and 1703 in Vista-3. Property to be taken physical possession in Case No.375/SA/2019 is Flat No.101.

2] Three different Commissioners have been appointed to take physical possession of the flats. Now, there cannot be a Commissioner to take possession of Flat No.101 when a

Commissioner has been appointed to take possession of said flat along with Flat Nos.1203 and 1703. Further, there cannot be a Court Commissioner to take possession of Flat Nos.1203 and 1703 when a Court Commissioner has been appointed to take possession of said two flats and another flat.

3] It would be advisable for Punjab National Bank to pursue only Case No.373/SA/2019, for the reason Court Commissioner to take possession of all three flats has been prayed for therein.

4] We dispose of the three Writ Petitions by consent setting aside the three orders impugned therein all dated 29.08.2019. We revive Case Nos.373/SA/2019, 374/SA/2019 and 375/SA/2019 before the Chief Metropolitan Magistrate requiring fresh orders to be passed.

**Balaji G.
Panchal**

Digitally signed
by Balaji G.
Panchal
Date: 2019.11.26
11:09:44 +0530

SMT. BHARATI DANGRE, J

CHIEF JUSTICE