IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION (L) NO. 29426 OF 2019

Hi-Tech Food Products & Ors. .. Petitioners
Vs.
Corporation Bank & Ors. .. Respondents

Mr. Rohan Cama a/w. Mr. Janhavi Karnik and Mr. Aditya Udeshi for the Petitioners.
Ms. Rumana Rahman i/b Rathina Maravarman for Respondent Nos.1, 2 & 3.

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

P. C. :

1. Heard learned Counsel for the parties.

2. Proceeding on the basis that the Petitioners were in default of the credit availed of by the 1st Petitioner and classifying the account as an NPA the 1st Respondent proceeded under the SARFAESI Act, 2002 by issuing the notice required by Sub-section 2 of Section 13 thereof. It was followed by an order under Section 14 of the SARFAESI Act obtained by the bank from the District Magistrate, Pune. The Petitioners proceeded under Section 17 of the SARFAESI Act. The bank proceeded to sell the secured assets and on an application filed in the Securitization Application filed by the Petitioners, on 08.02.2013 the Presiding Officer of DRT, Pune restrained the bank from

confirming the sale.

3. Thereafter the officers of the bank took steps to dispossess the Petitioners from the secured assets and believing that the order dated 08.02.2013 requiring the bank not to confirm the sale would require status-quo qua physical possession of the secured assets to be maintained. An application was filed before DRT to so clarify.

4. The Tribunal held that a measure under Section 14 of the SARFAESI Act could not be the subject matter of proceedings before the DRT and in Appeal learned DRAT vide impugned order dated 10.10.2019 concurred.

5. The learned DRAT has been impressed by Sub-section 3 of Section 14 of SARFAESI Act which records in no act of Metropolitan Magistrate or the District Magistrate done in pursuance of Section 14 shall be called in question in any Court or before any authority.

6. The provision interpreted by the two authorities prohibit Court or authorities under any other law except SARFAESI Act, 2002. In the decision reported as *(2010) 8 SCC 110, Union Bank of India Vs. Satyawati Tondon & Ors.,* the Supreme Court categorically held that measures under Section 14 of the SARFAESI Act would be amenable to challenge by way of application under Section 17/17A of SARFAESI Act, 2002.

7. Under the circumstances, we dispose of the Writ Petition declaring that the order dated 08.02.2013 requiring the bank not to confirm the sale effectively needs status-quo to be maintained with respect to physical possession of the secured assets.

8. Noting that proceedings are pending before the learned DRT

since 2011, we would request the learned DRT, Pune to decide the Securitization Application No. 123 of 2011 within six months from today.

[SMT. BHARATI DANGRE, J.] [CHIEF JUSTICE]

Arjun M. Kadam

Digitally signed by Arjun M. Kadam
Date: 2019.12.03 10:43:50 +0530