IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION (STAMP) NO. 296 OF 2020

Mr. Lal Changumar Nagwani .. Petitioner
Vs.
Citi Bank N. A. & Anr. .. Respondents

Mr. Siddharth Samantaray i/b Mr. Puneet K. Gogad for the Petitioner.
Mr. M. B. Kale i/b GNP Legal for Respondent No.1.
Mr. Y. S. Khochare, AGP for Respondent No.2-State.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 8th JANUARY, 2020.

P. C. :

1. Heard learned Counsel for the Petitioner.

2. The pleadings in the Petition admit that on 11.05.2016 the 1st Respondent served a notice upon the Petitioner under Sub-section 2 of Section 13 of the SARFAESI Act intimating that a sum of ₹ 17,13,547/- as on 11.05.2016 were due and payable by the Petitioner to the 1st Respondent.

3. There are no averment in the Writ Petition that the Petitioner responded to the said notice.

4. Therefore, this Court would be justified in determining the prayer made in the Petition on the premise that the Petitioner did not dispute demand in sum of ₹ 17,13,547/- as on 11.05.2016.

5. The dues swelling on account of interest accruing on the

outstanding amount. The Respondent took resort to proceedings under Section 14 of the SARFAESI Act and approached the learned District Magistrate, Pune who appointed the Tahasildar, District Pune as the officer to take possession of the secured asset being Shop No.2, Ground Floor, Manik Prabhu Complex, CTS 420, Narayan Peth, Taluka-Haveri Dist-Pune.

6. In terms, the Tahasildar authorized the Circle Officer to take possession of the secured asset.

7. In the Petition it is pleaded that on account of the wife of the Petitioner being detected with cancer, the Petitioner had to spend money on the treatment of his wife and that the illness of the Petitioner's wife adversely affected the business of the Petitioner.

8. If this be so the Petitioner ought to have approached the Manager of the bank praying either the credit to be re-scheduled or extension of time to be granted to clear the dues.

9. This Court would be handicapped in granting any relief to the Petitioner on said account.

10. Learned Counsel for the Petitioner states that the Petitioner is willing to settle the matter with the bank and has shown to us a demand draft payable in the name of the 1st Respondent and drawn on HDFC Bank. The demand draft is in sum of ₹ 8,00,000/-.

11. Suffice it to state that as per the law the Petitioner can save the secured asset from being sold by tendering the amount due to the bank before sale takes place. Alternatively, the Petitioner can work out a negotiable settlement with the bank before the sale takes place.

12. Under the circumstances leaving open the option to the Petitioner

to make a settlement proposal to the 1st Respondent bank, we dispose of the Petition declaring that pursuant to the order passed by the learned District Magistrate the Tahasildar alone can take possession of the secured asset and cannot delegate the power to a subordinate officer.

13. No costs.

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

Arjun M. Kadam Digitally signed by Arjun M. Kadam Date: 2020.01.09 10:59:07 +0530