

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION (STAMP) NO. 1555 OF 2020

Electra Menezes

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

Mr. Nilesh Ojha a/w. Shivam Mehra & Ms. Manasi Jain & Vijay Kurle
i/b Mangesh Dongre for the Petitioner.

Mr. Joel Carlous for Respondent No.4.

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

Mr. Tanveer Nizam for Respondent No.5.

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

DATE : 27th JANUARY, 2020.

P. C. :

1. Prayer (a) made in the Writ Petition is to quash the notice dated 28.12.2019 issued by the Tahasildar in execution of the order dated 16.03.2016 passed by the District Magistrate, District Pune appointing the Tahasildar as an officer to take possession of the secured asset on an application filed by 4th Respondent under Section 14 of the SARFAESI Act, 2002.

2. Prayer (b) is to direct the Registrar, Debt Recovery Tribunal to immediately register Misc. Application (L) No. 24 of 2020 filed in Securitization Application (L) No. 921 of 2019.

3. Prayer (c) is to stay the operation of the notice dated 28.12.2019.

4. Neither prayer can be granted by us for the reason the 4th Respondent proceeded to enforce a security i.e. enforce the mortgage in its favour created by Respondent Nos.6 to 9. The Petitioner filed the securitization application pleading title to the property and thus challenging the entitlement of said Respondent to mortgage the property. The challenge failed vide Judgment dated 15.11.2019.

5. Meaning thereby, the order passed by the District Magistrate, Pune appointing the Tahasildar, Pune has been upheld by the Debt Recovery Tribunal.

6. The Petitioner has to file an Appeal challenging the said order.

7. The direction sought by the Petitioner that the Respondent should immediately take steps to register Misc. Application (L) No. 24 of 2020 does not require any direction to be issued by this Court for the reason registration of an application is a ministerial functioning. The Petitioner can always file a precipe before the Presiding Officer of the Debt Recovery Tribunal praying that the direction be issued to the Register of the Tribunal to list the application before the Tribunal.

8. These are our reasons to deny the relief sought in the Petition.

9. The Writ Petition is dismissed.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

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