

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (L) NO. 1620 OF 2020

Miss Almaz Alladin .. Petitioner
Versus
The State of Maharashtra & Ors .. Respondents

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Mr.Ghanshyam Upadhyay I/b Abhishek Mishra for the petitioner.
Ms.Nisha Mehra, AGP for the State.
Mr.Joel Carlos for Respondent No.4.

CORAM: PRADEEP NANDRAJOG, C.J.
AND BHARATI DANGRE, J.

DATED : 30th JANUARY, 2020.

P.C:-

1 Pertaining to the same property and the impugned notice dated 28th December 2019, on 27th January 2019 we had disposed of Writ Petition (Stamp) No.1555 of 2020 the order as under :-

“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 16.03.2019 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 Registrar 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.”

2 For the reasons mentioned in the said order, instant Petition is dismissed incorporating said order as the reasoning for the present order.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE