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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8656 OF 2019

Bank of India

.. Petitioner

Versus

The Union Territory of Dadra and
Nagar Haveli, Silvassa & Ors.

.. Respondents

Mr. B. Gopalakrishnan a/w Ishita Merchant for Petitioner.
Mr. S. S. Deshmukh for Respondent No.1.
Mr. V. N. Ajikumar for Respondent No.3.
Mr. Arshil Shah a/w Sneha Vani for Respondent Nos.6, 7 and 8.

CORAM: PRADEEP NANDRAJOG, CJ. &
SMT. BHARATI DANGRE, J.

JANUARY 13, 2020

P.C.

1. Three properties were mortgaged to the Petitioner.

The same are as under :-

“1) All that piece of Land with buildings sheds and structures standing thereon situate at R.S. No.101, Rakhlol, Plot No.3, Opposite Vaibhav Plastic, Beside Cosmopack Universal Cosmetics, Rakholl, Silvassa, Unit No.DNH adm. 2000 sq.mt. of land and 1532.78 sq.mtrs. built up area of Factory building Bounded as under:-

East : *By Plot No.4*
West : *By Plot No.2*
South : *By Land of Survey No.101*
North : *By Road.*

2) *All that piece of Land with buildings sheds and structures standing thereon situate at Industrial Gala No.E-3, E-4, E-5 & E-6 on ground floor in “SPAN INDUSTRIAL COMPLEX” situated at R.S. NO.223, Paikee Span Industrial Complex, Dadar Silvassa – 396 230, Unit of Dadra & Nagar Haveli, adm. 2940 sq.ft. of built up area :*
Bounded as under:-

East : *By Land bearing S.No.223(P)*
West : *By Land bearing S.No.221*
South : *By Silvassa, Vapi Marol Road*
North : *By Land bearing S.No.222 & 238.*

3) *All that piece of Land with buildings sheds and structures standing thereon situate at Industrial Gala No.E-13, E-13A, E-15 on ground floor in “SPAN INDUSTRIAL COMPLEX” situated at R.S. No.223, paikee Span Industrial Complex, Dadar Silvassa – 396 230, Unit of Dadra & Nagar Haveli, adm. 2370 sq.ft. of built up area, Bounded as under:-*

East : *By Land bearing S.No.223(P)*
West : *By Land bearing S.No.221*
South : *By Silvassa, Vapi Marol Road*
North : *By Land bearing S.No.222 & 226.”*

2. Petitioner filed an Application under Section 14 of the SARFAESI, 2002 before the District Magistrate / Collector, Dadra and Nagar Haveli, Silvassa, who appointed the Mamlatdar, Silvassa to take possession of the first property recording that the other two were sold by the mortgagor with the permission of the Bank.

3. As per the learned Counsel for the Petitioner the permission to sell the property was on the condition that the sale price realized would be remitted to the Bank. The argument is that since the sale price realized was not remitted to the Bank, the sale fails.

4. Suffice it to state that the condition of remittance was a condition antecedent the reason being that sale price is realized after the sale takes place. The breach of a condition antecedent by the mortgagor would not affect the title of the purchaser.

5. Thus, we find no merit in the Writ Petition and dismiss the same.

Pravin D.
Pandit

Digitally signed by
Pravin D. Pandit
Date: 2020.01.14
10:02:39 +0530

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE