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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 206 OF 2019
IN
WRIT PETITION (STAMP) NO. 1451 OF 2019

Sanjay Atmaram Sane & Anr.

.. Petitioners

Vs.

Axis Bank Limited & Ors.

.. Respondents

None for the Petitioners.

Mr. Rohit Gupta i/by Shashank N. Fadia for Respondent No.1.

Mr. M. M. Pabale, AGP for State.

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

FEBRUARY 07, 2020

P.C.

1. The Petitioners are the guarantors/mortgagors for a credit obtained by Control Automations Projects Pvt. Ltd. The credit being in default the 1st Respondent took resort to a measure under Section 14 SARFAESI and the District Magistrate appointed the Tahsildar to take physical possession of the mortgaged property.

2. The Tahsildar not executing the order passed by the District Magistrate, 1st Respondent-Bank filed Writ Petition Stamp No. 1451 of 2019 praying that the order passed by the District Magistrate be directed to be implemented by the Tahsildar. The Petitioners filed Civil Application No. 470 of 2019 to intervene in the said Writ Petition. On 27.02.2019 following order was passed in the said Civil Application:-

“1. We record the statement of the learned Counsel for the Respondent-Bank that possession of only that property will be taken which is covered by the order dated 1st February, 2018 passed by the District Magistrate, Raigad-Alibag in Application No. 102 of 2017 filed by the Respondent-Bank. In view of the above, no orders are required to be passed in the Civil Application at this stage.

2. List the Civil Application on 6th March, 2019.”

3. The Writ Petition was disposed of on 09.04.2019. The order reads as under:-

“1. We are informed by the leaned Counsel for the Petitioner that physical possession of the mortgaged property has already been taken. In the circumstances, nothing survives for consideration in the Petition. The Writ Petition to stand disposed of.

2. The Civil Application does not survive and also to stand disposed of.”

4. Present Contempt Petition has been filed alleging violation of the order dated 27.02.2019 by pleading that possession of the property taken over is not the mortgaged property but is some other property.

5. The pleadings in the Contempt Petition show that on a large parcel of land bungalows were constructed and the dispute which the Petitioners raise is to the identity of the bungalow with the appurtenant land which was mortgaged and what was taken possession of.

6. Such an issue cannot be decided under contempt jurisdiction and thus the notice of contempt is discharged and the Contempt Petition is dismissed.

**Pravin D.
Pandit**

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Pravin D. Pandit
Date: 2020.02.07
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SMT. BHARATI DANGRE, J.

CHIEF JUSTICE