

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION (STAMP) NO. 12219 OF 2019

Dombivali Nagari Sahakari Bank Ltd. .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. A. R. Gole for the Petitioner.
Mr. M. M. Pabale, AGP for Respondent Nos.1 to 5.
Mr. Harish Adwant for Respondent Nos.6 to 8.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 24th JANUARY, 2020.

P. C. :

1. The Petitioner has obtained an order under Section 14 of the SARFAESI Act, 2002 from the learned District Magistrate on 06.03.2018. The grievance is that the Tahasildar, District Nashik appointed as the officer by the learned District Magistrate is not taking possession of the mortgaged property.
2. The prayer made is to direct the Tahasildar to implement the order dated 06.03.2018.
3. The borrowers and the mortgagors impleaded as Respondent Nos.6 to 8 have filed an application under Section 17 of the SARFAESI Act, 2002 challenging the measures taken by the bank including a challenge to the order dated 06.03.2018.

4. Questioned by the Court, learned Counsel for the said Respondents states that the Respondents have not been able to obtain any interim order from the Debt Recovery Tribunal.

5. Suffice it to state once the mortgagors or the borrower have not been able to obtain any interim orders from the Debt Recovery Tribunal, the order dated 06.03.2018 has to be enforced and the Tahasildar has to execute the same.

6. We note the stand of the borrower that after the impugned order was passed, ₹ 3.15 Crores have been paid to the bank. Learned Counsel for the bank disputes the said statement.

7. We cannot adjudicate on the said claim for the reason no proof has been filed before us that after the order implementation whereof is sought for the Petitioner has deposited ₹ 3.15 Crores with the bank.

8. Thus, we dispose of the Petition directing that subject to any interim order which may be obtained by the borrower or guarantor from the Debt Recovery Tribunal, the Tahasildar shall implement the order dated 06.03.2018 within three weeks from today.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

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by Arjun M.
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