

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2250 OF 2020

Digambar s/o Bhikaji Puri, Buldana & Anr.

Vs.

Union of India & Anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Shri R.K. Thakkar, Advocate for the petitioners.
Shri G.R. Sadar, Advocate for the respondent No.2.

**CORAM : DIPANKAR DATTA, CJ. AND
R.K. DESHPANDE, J.**

DATED : NOVEMBER 03, 2020.

P. C.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The petitioners were advanced a loan by the Jijau Commercial Co-operative Bank Ltd., Amravati (hereafter “the Bank”, for short). They having failed to discharge their debt, proceedings under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (hereafter “the Act”, for short) were initiated by the Bank. The petitioners, despite receiving notice under Section 13(2) of the Act, failed to clear the dues resulting in action being initiated by the Bank under Section 13(4) thereof. An application was moved before the District Magistrate, Amravati under

Section 14 of the Act, whereupon possession of the secured asset was made over in favour of the Authorised Officer of the Bank. Such officer thereafter put up the secured asset for sale. Challenging the notice of sale, the petitioners launched a two pronged attack. First, they approached the relevant Debts Recovery Tribunal under Section 17 of the Act sometime in 2019. On the allegation that the Tribunal was not considering the application for stay, the petitioners approached this Court with the instant Writ Petition.

3. On September 15, 2020, a co-ordinate Bench of this Court directed the petitioners to keep in deposit with the Bank Rs.15,00,000/- (Rupees Fifteen lakh) without prejudice to the rights and contentions of the parties. In the event the payment were made, the Court directed stay of further proceedings. It was also made clear that in default of payment, the Bank shall be free to proceed in accordance with law.

4. We are informed by Mr. Thakkar, learned Advocate for the petitioners, that in compliance with the order dated September 15, 2020, payment of Rs.15,00,000/- (Rupees Fifteen lakh) was effected on September 25, 2020. This position is not disputed by Mr.Sadar, learned Advocate for the Bank. At the hearing before us, Mr. Thakkar has sought to challenge the action of the Bank on the ground that the same is in breach of the provisions of the Security Interest (Enforcement) Rules.

5. We are not inclined to examine the points raised by Mr. Thakkar on merits in view of pendency of the application under Section 17 before the relevant Tribunal. It is settled law that writ remedy cannot be pursued as a parallel remedy. We, therefore, dispose of this Writ Petition with the following directions :-

i) The interim order of protection granted by this Court by the order dated September 15, 2020 shall continue for a period of one month or until orders to the contrary are passed by the Tribunal, whichever is earlier;

ii) The Tribunal having fixed November 16, 2020 as the date for hearing of the application for stay, we direct that it shall be at liberty to hear the parties and consider the question of extension/vacation of the interim order passed herein on that date.

iii) If for some unforeseen reason the hearing is not complete on November 16, 2020, further hearing shall commence on the following day. We hope and trust that earnest endeavour shall be made by the Tribunal to decide the stay application as early as possible;

iv) All points raised in this Writ Petition are left open for the petitioners to urge before the Tribunal for a decision by it in accordance with law; and

v). Since it is not in dispute that Rs.15,00,000/- (Rupees Fifteen lakh) has been deposited by the petitioners within the time fixed by this Court, the same shall be retained by the Bank till such time it obtains further order from the Tribunal for appropriation thereof.

6. There shall be no order as to costs.

7. The order be communicated to the counsel appearing for the parties, either on the e-mail address or on WhatsApp or by such other mode, as is permissible in law.

(R.K. DESHPANDE, J.)

(CHIEF JUSTICE)

Sumit