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

WRIT PETITION NO.3414/2020

Raju S/o Uttam Masane
..Vs..
The District Magistrate, Buldhana and others

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

Shri Mahesh Rai, Advocate for the petitioner.

CORAM :- SUNIL B. SHUKRE AND AVINASH G. GHAROTE, JJ.
DATED :- 15.12.2020.

1. Heard learned counsel for the petitioner and Shri A.M. Deshpande, learned Additional Government Pleader for respondent Nos.1 and 2, who appears by waiving notice.

2. The only prayer made in this petition is as follows:-

> *"a) Quash and set aside the impugned order dated 16.03.2020 passed by the respondent No.1 i.e. District Magistrate, Buldhana in Application No.81/168/Shegaon/executive/2018-19 passed u/s 14 of the SARFESSI Act, 2002."*

3. The order dated 16.3.3020, which is impugned in this petition, has been passed by the Collector, Buldhana, the empowered officer in terms of Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

4. It is well settled law that all that is required to be done while exercising the jurisdiction under Section 14 of the said Act is to verify from the bank or financial institution as to whether any notice of Section 13(2) of the Act has been given or not and whether the secured assets were within the jurisdiction of the concerned bank or the financial institution.

5. This being the limited authority conferred upon the empowered officer, a debtor cannot have any say in the matter except when there is no notice issued under Section 13(2). It is, however, contended that the notice under Section 13(2) has not been issued or it has not been received by the petitioner, and that very recently he learnt about issuance of notice. Whatever may be the truth, it is not in dispute, at this stage, that the petitioner is a debtor who owes huge amount of money to the financial institution. Although there may be dispute about sum owed to the financial institution, the petitioner does not deny that something has remained to be paid to the financial institution.

6. Learned counsel for the petitioner, on instructions, submits that amount of Rs.11,27,360/- is shown to be outstanding against the petitioner and petitioner is willing to deposit an amount of Rs.6,00,000/-.

7. Considering the contentions of the petitioner and also the fact that the petitioner is a debtor to the financial institution, we are inclined to grant conditional stay to

the effect and operation of the impugned order.

8. Issue notice for final disposal to the respondent No.3, returnable on 12th January, 2021.

9. In the circumstances, there shall be stay to the effect and operation of the order dated 16.3.2020 subject to the condition that the petitioner shall deposit in this Court an amount of Rs.11,27,360/- in two instalments as per the following schedule:-

(i) The amount of Rs.6,27,360/- shall be deposited in this Court on or before 22nd December, 2020,

(ii) The remaining amount of Rs.5,00,000/- shall be deposited in this Court on or before 11th January, 2021.

10. If there is a single default in depositing the either of the above referred amounts, this order of stay shall get vacated automatically and this petition also shall stand dismissed without reference to this Court.

11. Steno copy of the order be furnished to both sides.

JUDGE **JUDGE**

Tambaskar.