

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

WRIT PETITION NO. 7120 OF 2019

(Maya w/o Sunil Kamble vs. Union of India thr. its Secretary, New Delhi & Ors.)

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

Court's or Judge's orders.

Shri A.H. Lohiya, Advocate for the petitioner.
Mrs. M.P. Munshi, Advocate for respondent Nos. 1
and 2.
Shri M. Anilkumar, Advocate for respondent Nos. 3
and 3A.
Shri K.S. Motwani, Advocate for respondent No. 4.

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**CORAM : DIPANKAR DATTA, CJ. &
R.K. DESHPANDE, J.
NOVEMBER 03, 2020.**

P.C.

Hearing was conducted through Video Conferencing and the learned counsel for the parties agreed that the audio and visual quality was proper.

Shri Lohia, learned Advocate appearing for the petitioner seeks withdrawal of this writ petition with liberty to move the Debts Recovery Tribunal, Nagpur, with an appropriate application under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter "the

SARFAESI Act”, for short). He also prays that the auction purchaser may be restrained from dealing/alienating/encumbering the subject property for such period as may be fixed by this Court, to enable the petitioner obtain appropriate relief from the Tribunal.

Shri Motwani, learned Advocate for respondent No. 4 /auction purchaser assures that he shall not deal/alienate/encumber the subject property in any manner for a period of a month.

In such view of the matter, this writ petition is dismissed as withdrawn. The petitioner shall be at liberty to approach the appropriate Tribunal, in accordance with law. All points, except the point of constitutional validity of Section 13(8) of the SARFAESI Act, are kept open. Since the question of possession of the subject property is disputed, we make no order to that effect.

We, however, hope and trust that the respondent No. 4 shall honour the assurance given by his learned Advocate.

The amount of Rs.9,00,000/- (Rs. Nine lakh only) deposited by the petitioner with the Registry in terms of an earlier order of this Court

shall be transferred to an appropriate account to be intimated by the DRT, Nagpur, if at all the petitioner approaches the Tribunal. If no such intimation is received within two months, the Registry shall refund the amount to the petitioner along with accrued interest, if any.

This order be communicated to the learned counsels 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)

*GS.