

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.742 OF 2021

Anant Raj & Anr.	...	...Petitioners
v/s.		
State of Maharashtra & Ors.		...Respondents

....

Mr. Sidharth Samantaray a/w Mr. Ishan Srivastava for the Petitioners.
 Mr. Karan Thorat, AGP for the Respondent No.1/State.
 Mr. Sarosh Damania for Respondent No.2.
 Ms. Madhavi Nalluri i/b Ms. Vidhi N. Sharda for Respondent No.3-Bank.

...

**CORAM : A.A. SAYED &
MADHAV JAMDAR, JJ.**

DATED : 03 MARCH 2021

P.C.:

1 The Petition is filed seeking the following reliefs:

“B. That the Hon’ble Court may be pleased to stay the Possession Notice dated 17th February 2021 pending hearing and final disposal of this present writ petition.

D. That the Hon’ble Court may be pleased to issued writ of mandamus; any other writ, order or direction in the nature of mandamus, directing stay on the Possession Notice dated 17th February 2021 of the property i.e. Flat No.206 and 207, 2nd Floor, Laxmi Darshan CHSL, Shrikhande Wadi, G-B Patharli, Dombivali (E), Thane – 421 201 till the Petitioners can approach the

appropriate Court i.e. DRT, Thane Court and Senior Citizens Tribunal.”

2 It is an admitted position that the possession notice has been issued by the Authorized Officer of the Respondent-Rajkot Nagrik Sahakari Bank Ltd. The possession notice of the secured asset under SARFAESI Act is required to be issued by the concerned Tahasildar/Officer authorized by the District Magistrate and not by the Authorised Officer of the Respondent-Bank. We are informed that the order under section 14 of the SARFAESI Act is already passed by the District Magistrate. If the possession of the secured asset is to be taken, the same would have been taken by the Tahasildar/Officer authorized by the District Magistrate.

3 In the circumstances, we record the statement of learned Counsel for the Respondent-Bank that the possession of the secured asset shall be taken only through the Tahasildar/Officer authorized by the District Magistrate in accordance with law. In view of the said statement, the possession notice dated 17 February 2021 issued by the Respondent-Bank shall not be given effect to.

4 The Petition to stand disposed of accordingly.

(MADHAV JAMDAR, J.)

(A.A. SAYED, J.)