

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9195 OF 2021

Mr. Purshottam Gangaram Gurud }	Petitioner
versus	
Fullerton India Credit Company }	
Limited and Anr. }	Respondents

Ms. Savita Nangare i/b. Atham Legal for the petitioner.
Mr. R. L. Motwani for respondent no. 1.

**CORAM :- DIPANKAR DATTA, CJ &
M. S. KARNIK, J.
DATE :- DECEMBER 20, 2021**

PC :-

1. Pursuant to an order passed by the District Magistrate, Thane under section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter, "the SARFAESI Act", for short), the Tahsildar and Executive Magistrate, Thane has issued a notice dated December 7, 2021 conveying his intention of taking possession of the secured asset on December 21, 2021. The District Magistrate was activated to pass such an order under section 14 of the SARFAESI Act by the secured creditor, respondent no. 1.

2. It is not in dispute that the petitioner has moved the Debts Recovery Tribunal-III, Navi Mumbai (hereafter, "the DRT-III(NM)", for short) by filing Securitization Application No. 133 of 2021. In such application, an interim application has been taken out by the petitioner seeking stay of the notice

dated December 7, 2021. A praecipe came to be moved on behalf of the petitioner on December 15, 2021 seeking circulation of the interim application indicating urgency by referring to the impugned notice in terms whereof possession is scheduled to be taken on December 21, 2021. However, the Presiding Officer of the DRT-III(NM) not being available, the praecipe was placed before the Presiding Officer of the Debts Recovery Tribunal-I (hereafter, "the DRT-I", for short) and as per the directions given by such officer, the interim application has been directed to be listed on December 22, 2021.

3. It is at this stage that this writ petition has been moved before this Court. Grievance of the petitioner is that the interim application ought to have been placed for consideration prior to December 21, 2021 and not on December 22, 2021, for, if possession is taken over by the Tahsildar in terms of the notice dated December 7, 2021 on December 21, 2021, the interim application is likely to be rendered infructuous.

4. We have heard the learned advocates for the parties. We are of the considered opinion that interference to a limited extent is called for on this writ petition, in view of the grievance expressed by the petitioner which has substance. The impugned notice dated December 7, 2021 shall remain stayed till December 27, 2021 or until further orders are passed by the DRT-I whichever is earlier. We request the Presiding Officer, DRT-I to consider the interim application of the petitioner on December 22, 2021 or soon thereafter, uninfluenced by reason of entertainment of this writ petition, and to pass appropriate orders in accordance with law.

5. The writ petition stands disposed of. There shall be no order as to costs. All contentions are left open.

SALUNKE
J V

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by SALUNKE J V
Date: 2021.12.20
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(M. S. KARNIK, J.)

(CHIEF JUSTICE)