

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

WRIT PETITION NO. 1062 OF 2022

M/s. Cartel India Logistics	}	
Pvt. Ltd. and Ors.	}	Petitioners
Versus		
The State of Maharashtra	}	
And Ors.	}	Respondents

Mr. Ganesh Misal for the petitioners.

Mr. P. P. Kakade-Government Pleader
with Ms. Reena Salunkhe-AGP for State.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: FEBRUARY 3, 2022

P.C.:

1. The petitioners are the debtors of the respondent no. 4. Since the petitioners defaulted in clearing their liability, the respondent no. 4 took recourse to the provisions of Chapter III of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter "the SARFAESI Act", for short). After a demand notice under section 13(2) proved abortive and upon an application under section 14 of the SARFAESI Act being made, the District Magistrate, Pune passed an order dated 26th February 2020 authorizing the Tahsildar-cum-Executive Magistrate, Pune City, Pune to take possession of the secured asset.

2. Pursuant to such order dated 26th February 2020, the Tahsildar-cum-Executive Magistrate, Pune City, Pune issued a notice of possession dated 16th December 2021 fixing 8th

February 2022 as the date for taking possession of the secured asset and forwarding it to the respondent no.4. Such notice of possession has been marked, *inter alia*, to (i) Resident Nayab Tahsildar/Circle Officer, Pune City/Circle Officer, Yerwada/Awwal Karkun (Senior Clerk) as well as the (ii) In-charge Talathi, Ghorpadi.

3. The grievance of the petitioners is that although the Tahsildar-cum-Executive Magistrate, Pune City, Pune has been authorized by the District Magistrate, Pune to take possession, the former has sought to delegate the function of taking possession to the officers to whom the notice is marked, which is impermissible in law.

4. Mr. Kakade, learned Government Pleader for the respondent nos. 1 to 3 submits that the order of the District Magistrate, Pune shall be complied with by the Tahsildar-cum-Executive Magistrate, Pune City by remaining physically present at the site of the secured asset and after taking possession thereof shall forward it to the respondent no. 4.

5. Such statement of Mr. Kakade clarifies the position. We dispose of the writ petition, accepting the statement of Mr. Kakade, that the Tahsildar-cum-Executive Magistrate, Pune City, Pune will remain present at the site of the secured asset on 8th February 2022, shall obtain possession and forward the same to the authorised officer of the respondent no. 4. Apart from the Tahsildar-cum-Executive Magistrate, Pune City, Pune, or the District Magistrate, Pune, none else shall take possession of the secured asset.

6. With the aforesaid clarification, the writ petition stands disposed of. There shall be no order as to costs.

7. The other points that the petitioners wish to urge in respect of the action taken by the respondent no. 4 under Chapter III of the SARFAESI Act are not examined and may be raised before the jurisdictional Tribunal in appropriate proceedings, in accordance with law.

SALUNKE
J V

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(M. S. KARNIK, J.)

(CHIEF JUSTICE)