

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

**INTERIM APPLICATION NO. 2926 OF 2022
IN**

WRIT PETITION NO. 4208 OF 2022

Invent Assets Securitisation and
Reconstruction Pvt Ltd.

.. Applicant/
(Org.Respondent No.1)

In the matter between

Envirro Bulkk Handling Systems Pvt Ltd. .. Petitioner

Versus

Invent Assets Securitisation and
Reconstruction Pvt Ltd. & Anr.

..Respondents

Mr. Charles D'souza a/w Mr. Vinay Desphande and Ms. Jyoti Sanap i/b V. Desphande and Co. for the Applicant-Respondent No.1.

Mr. Pratap Sampat a/w Ms. Aarti Suvarna and Ms. Bharti Suvarna for the Petitioner.

Mr. A.A. Alaspurkar AGP for the Respondent-State.

**CORAM: A. A. SAYED &
ABHAY AHUJA, JJ.**

DATE : 2nd MAY 2022

P.C. :-

1. The Interim Application is filed by the Applicant seeking following reliefs.

“(a) The Ex-parte order dated 07.04.2022 be vacated and/or modified to the extent of permitting the Respondent No. 1 and 2 to take possession and handover the same to the Applicant.

(b) This Hon'ble Court be pleased to dismiss the aforesaid Writ Petition with order as to compensatory costs for suppressing the vital

and material facts from this Hon'ble Court and obtaining an order of restraint by misrepresenting this Hon'ble Court".

2. The Petition was disposed of by an order dated 7th April 2022 which reads as follows:

"P.C.:

(In view of urgency expressed, taken on Production Board.)

The Petitioners are essentially challenging the notice of the Tahsildar dated 16-03-2022 for possession of

(a) Row House No.97, Flora City, Village-Talegaon,Tal-Maval,District- Pune- ownership Mr.Milind Dixit and Mrs.Janhavi Dixit;
(b) Row House No.45, Flora City, Village-Talegaon,Tal-Maval, District-Pune-ownership Mr.Nitin P.Supe;

pursuant to the order passed by the District Magistrate under Section 14 of the SARFAESI Act.

2. In view of section 60 of the Insolvency and Bankruptcy Code, 2016 (IBC) and since the matter is still pending before the National Company Law Tribunal (for closure-), we dispose of the Petition by granting liberty to the Petitioner to approach the NCLT.

3. In the facts and circumstances of the case, however, we direct the Respondent No.2-Tahsildar to defer taking possession of the aforesaid Row-Houses, which is scheduled to be taken tomorrow i.e. 08-04-2022, for a period of three weeks from today."

3. Since the order dated 7th April 2022 only direct

Respondent No. 2 to defer for taking possession for a period of three weeks and since the said order was an exparte order so far as Applicant is concerned, we make it clear that the issue of law raised in the Application viz-whether or not the Guarantors of the Corporate Debtor enjoy protection, is kept open.

4. We are informed that the Petitioner has already filed an Application before the NCLT, which has been served upon the Applicant.

5. We, therefore, make it clear that the Petitioner will have to apply to NCLT for any protective order and the Application of the Petitioner shall be considered by the NCLT on its own merits without being influenced by the order dated 7th April 2022 passed in the Writ Petition.

6. The Interim Application to stand disposed of accordingly

7. All parties to act on an authenticated copy of this order.

(ABHAY AHUJA, J.)

(A. A. SAYED, J.)

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