IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9090 OF 2022

L & T Finance Limited ….Petitioner

V/s.

The State of Maharashtra and Anr. …Respondents

Mr. Karl Shroff a/w Ms. Priyanka Fadia i/b Mr. Shashank Fadia for Petitioner.
Ms. Neha Bhide – AGP "B" Panel for State.

CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.
DATED : 3rd AUGUST 2022

P.C. :

1. Petitioner is impugning an order dated 7th June 2022 passed by Respondent No.2 – District Magistrate, Pune. According to Mr. Shroff the order goes totally contrary to settled law.

2. By the said order, Respondent No.2 has disposed the Securitization Application of petitioner on the pretext that the Police Commissioner, Economic and Cyber Crime Branch, Pune vide his order dated 26th November 2021 has directed submission of proposal to Home Department, Maharashtra regarding attachment of secured property as the borrowers and others have defaulted to return the deposits received from the depositors on maturity and against them C.R. No. 3/2021 has been filed under Section 406, 420 and Section 34 at Swargate Police Station, Pune City, under Sub Section (1) of Section 4, Section 5 and Section 8 of the

Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (Mah. 16 of 2000) (the MPID Act). Respondent No.2 in the impugned order has stated that therefore possession of the secured property cannot be taken for the time being. Mr. Shroff submitted that even in most recent judgment of this court in Civil Writ Petition No. 5055 of 2021 dated 19th July 2022 (yet to be reported), this court has held that Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the SARFAESI Act) is only an enabling provision which comes into play only after the defaulting borrower has failed and/or neglected to discharge in full its liability to the secured creditor and is limited to providing assistance to the secured creditor to recover possession of secured asset against non-co-operative borrowers.

3. Ms. Bhide in fairness submitted that the law is quite clear on this subject and courts have held time and again what is the scope of Section 14 of the SARFAESI Act. We would therefore agree with Mr. Shroff that Respondent No.2 has not only transgressed the jurisdiction vested to him under Section 14 of the SARFAESI Act but had infact acted contrary to it. The jurisdiction vested under Section 14 of the SARFAESI Act is limited only to assisting a secured creditor in taking possession of the secured assets and nothing more. Section 14 does not contemplate, much less provide for any person to resist the taking of possession of the secured assets of the authorities so mentioned in Section 14 of the SARFAESI Act. The function

of the relevant authority under Section 14 of the SARFAESI Act is purely ministerial and restricted to ensuring that the secured creditor has complied with the requirements as set out in Section 14 (1) (i) to (ix). Once the authority is satisfied that the requirements of Section 14 have been met and/or complied with, the authority has to proceed to take possession of the secured asset.

4. In the circumstances, since the issue involved is very narrow and a pure question of law, we hereby dispose the petition itself in terms of prayer clause – (a) which reads as under :

> *(a) That this Hon'ble Court may be pleased to issue the Writ of Mandamus or Writ in the nature of Mandamus or any other appropriate Writ, thereby directing the Respondent No.2 to restore the Securitisation Application dated 5th May, 2022 being Secu/SR/1896/2022 on the file of the Respondent No.2 and direct the Respondent No.2 to pass necessary orders within 30 days thereafter, as per the mandate of the SARFAESI Act.*

5. The Securitization Application No. SECU/SR/1896/2022 is restored to file of Respondent No.2. Respondent No.2 shall dispose the application within 30 days of receiving copy of this order.

6. Petition disposed.

(A.S. DOCTOR, J.) **(K.R. SHRIRAM, J.)**