

JPP

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

WRIT PETITION NO. 920 OF 2023

RBL Bank Ltd.

... Petitioner

V/s.

State of Maharashtra and Ors.

... Respondent

Mr. Meghnath Navlani for the Petitioner

Ms. Shruti D. Vyas, 'B' Panel Counsel for the Respondent

***CORAM : NITIN JAMDAR &
ABHAY AHUJA, JJ.***

DATE : 17 FEBRUARY 2023

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner – Secured Creditor is before this Court making a grievance that the Petitioner had moved an application under Section 14 of the Securitization and Reconstruction of Financial Assets Enforcement of Security Interest (SARFAESI) Act, 2002 before the District Magistrate, Pune and by passing an order on 27 May 2022, the District Magistrate directed and handed over the physical possession of the subject property to the Petitioner.

3. It is the Petitioner's allegation that thereafter, the Respondent Nos. 8,9 and 11, the borrowers and their associates have entered in the property breaking the lock and have placed their lock. The Petitioner calls upon this Court to issue necessary directions.

4. According to us, firstly various questions would arise for adjudication which would have an element of factual enquiry.

5. Be that as it may, the Petitioner has approached the District Collector by making an application on 22 October 2022 bringing to the notice of the District Magistrate that after the possession was handed over, the borrowers have broken open the lock and entered the property again.

6. The learned Counsel for the Petitioner informs that the District Magistrate has not either granted the relief to the Petitioner nor rejected it and the application is kept pending. The learned Counsel for the Petitioner sought to contend that the legal issue would arise regarding the power of the District Magistrate. It is for the District Magistrate at the first instance to decide whether the District Magistrate has jurisdiction to proceed or otherwise. If the District Magistrate proceeds to take action in the pending application, then the aggrieved parties would have remedies. If the District Magistrate refuses to proceed on the ground that there is no

jurisdiction by giving reasons, the Petitioner would have its remedies open. Therefore, appropriate course of action would be to direct the District Magistrate to take a decision upon the application of the Petitioner within a period of four weeks and decide whether the District Magistrate would have jurisdiction to proceed. Order accordingly.

7. Since the borrowers and others are not before us, we keep contentions of all parties open.

8. Writ Petition is accordingly disposed of.

ABHAY AHUJA, J.

NITIN JAMDAR, J.

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PRAKASH
PAWAR

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