

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10525 OF 2023

Edelweiss Asset Reconstruction Company Ltd. ...Petitioner

Versus

The State Of Maharashtra Through Home ...Respondents
Department And Ors.

Mr. Siddharth Samantaray a/w. Ms. Priyanka Fadia i/b.
Shashank Fadia, Advocates *for Petitioner.*

Mr. Charles D'Souza a/w. Mr. Sunil Humbre and Mr. Prayag
Joshi i/b. Aarti Suvarna, Advocates *for Respondent Nos. 3 to 5.*

Ms. S.D. Vyas, 'B' Panel Counsel *for Respondent No. 1 & 6/State.*

CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.

DATE : OCTOBER 20, 2023

P. C.

1. The above Writ Petition is filed challenging the issuance of the impugned attachment order dated 21st November 2022 issued by the Home Department of the State of Maharashtra under the provisions of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short "**the MPID Act**"). The attachment

sought to be raised is only in relation to the property mentioned at Serial No. 2 of the said Notification, which is described as under: -

Sr. No.	Village/ Taluqa/ District	Description of Property	Name of Property Holder
2	Gaondevi Road District Mumbai City	401 (880 Sq./Ft.) 402 (660 Sq. Ft.) Sumer Saraswati Lieberman Road, Gaondevi Road, Mumbai 400 005 City Survey No. 481, Malabar Hill Division Doc. No. 3484/2012	Sumit Jawaharlal Jain

2. The learned counsel appearing on behalf of the Petitioner submitted that in the present case, the said property is the secured asset of the Petitioner-ARC and they have obtained an order under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the “**SARFAESI Act, 2002**”), which has been challenged by the borrowers before DRT-2, Mumbai by filing Securitisation Application No. 257 of 2017. There is a stay operating whereby DRT-2 had directed that the borrowers should not be dispossessed from the secured asset. The learned counsel informs us that by our Order dated 31st July 2023, DRT-2 was requested to decide the said Securitisation Application as expeditiously as possible

and preferably within a period of 4 months from the date of the Order. On 17th October 2023, DRT-2 has heard said Securitisation Application and the matter is now adjourned to 25th October 2023 for enabling the Applicants therein to file a withdrawal application. The learned counsel states that the Petitioner will not be able to implement the order passed under section 14 of the SARFAESI Act, 2002 solely because of the attachment issued under the MPID Act.

3. On the other hand, Ms. Vyas, the learned AGP appearing on behalf of the State has submitted that all facts relating to the order of attachment passed under the MPID Act including an order for releasing the secured asset of the Petitioner, are required to be determined by the Designated Court in consonance with the provisions of the MPID Act. It is submitted that the Petitioner has an alternate and efficacious remedy of approaching the Designated Court constituted under the MPID Act for the reliefs sought for in the above Writ Petition.

4. In light of this argument, the learned counsel for the Petitioner, on instructions, states that the Petitioner shall withdraw this Writ Petition and will approach the Designated Court for challenging/raising the impugned attachment order dated 21st November 2022 issued by the Home Department of the State of

Maharashtra under the provisions of the MPID Act in relation to the property mentioned at Serial No. 2 of the said notification. The learned counsel requests that the Designated Court be directed to expeditiously dispose of the Petitioner's application, within a time limit fixed by this Court, as the Petitioner ARC's dues are approximately Rs. 13.57 Crores [as on 4th July 2023] against which the borrower had obtained a stay by depositing a measely sum of Rs. 1 Crore in the year 2017.

5. We have heard the learned counsel for the respective parties. Under normal circumstances, we would not have passed such a direction but considering the facts of this case, we request the Designated Court to decide the Petitioner's application for seeking lifting of the attachment qua the property mentioned at Serial No. 2 of attachment order dated 21st November 2022 issued by the Home Department of the State of Maharashtra under the provisions of the MPID Act, as expeditiously as possible and the preferably within a period from 3 weeks from the date of filing of such application by the Petitioner.

6. With the above direction, the above Writ Petition is disposed of as withdrawn. There shall be no order as to costs.

7. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by
fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]