



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10510 OF 2023

Omkara Assets Reconstruction Private Limited And
Anr. ...Petitioners

Versus

The Office Of The Deputy Commissioner Of Sales Tax
And Ors. ...Respondents

Mr. Charles De Souza a/w. Mr. Rupak Sawangikar i/b. M/s. V.
Deshpande & Co., *for Petitioner.*

Mrs. S.D. Vyas, 'B' Panel Counsel, *for State/Respondent Nos. 1 to
3 & 5.*

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

DATE : SEPTEMBER 27, 2023

P. C.

1. The above writ petition is filed *inter alia* seeking a writ or order or direction against Respondent No. 1 to forthwith remove the lien / charge / encumbrances / Boja noted by the office of Respondent No. 1 with office of Respondent Nos.2 and 3 and for carrying out necessary mutation / changes in the revenue records by Respondent Nos. 2 and 3

in respect of secured assets of the Petitioners more particularly described in Exhibit-A to the petition.

2. The description of the property is more particularly set out herein i.e. Gat No. 40 (Part), Hissa No. 2, Near Trio Engineering Private Limited, Village Chimbli (Chakan), Taluka Khed, Pune.

3. In the facts of the present case, initially WP/15712/2022 was filed by the Petitioner ARC *inter alia* seeking a declaration that by virtue of the provisions of Section 26E of the SARFAESI Act, the Petitioner has priority of charge on the property described hereinabove. This writ petition came to be allowed by Order dated 10.04.2023. In other words, the declaration as sought by the Petitioner ARC was granted in the following terms :

“(a1) That this Hon’ble Court be pleased to order and declare that by virtue of provisions of Section 26E of SARFAESI ACT, the Petitioner has priority of charge on the subject property viz. 40 (Part, Hissa No. 2, Near Trio Engineering Private Limited, Village Chimbli (Chakan), Taluka Khed, Pune admeasuring 24170 sq. ft. out of property admeasuring 01, Hector 08 R i.e. 108 R out of Gat No. 40, together with Compound Wall, Industrial Shed are admeasuring 150 sq. ft. constructed thereon, Electrical Control Room, Staff Cabin, bearing and lying at village Chimbli Taluka and Sub-Registration District Khed, District and Registration District Pune and within the local limits of Grampanchayat Chimbli and within the

limits of Zilla Parishad Pune and Taluka Panchayat Samittee Khed over and above the charge of Respondent No. 2 or such other statutory authority.”

4. The order dated 10/04/2023 also recorded that since this declaration was given, the legal consequences thereof would follow and parties would take necessary steps accordingly. Since nothing was done after this Order, despite several requests from the Petitioner, the present writ petition is filed.

5. Ms. Vyas, the learned AGP appearing on behalf of Respondent Nos. 1 to 3 & 5 has today tendered a letter addressed by Deputy Commissioner of State Tax (Large Taxpayer Unit-1), Pune dated 18.09.2023 wherein the said Deputy Commissioner has informed the concerned Talathi, to remove the endorsement/encumbrance of the State Tax Authority as per the directions issued by this Court in WP/15712/2022. The said letter is taken on record and marked 'X'. This letter has been received by the Talathi on 18.09.2023.

6. In these facts and circumstances, we dispose the above Writ Petition by directing Respondent No. 2 to remove the endorsement / encumbrance of the State Tax Authority in the respect of the secured assets of the Petitioners more particularly described hereinabove from

the revenue records. This process shall be done and completed by the concerned Talathi within a period of three weeks from today.

7. The above Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

8. Though we have disposed of the above Writ petition, we place the above matter on board on 18.10.2023 for reporting compliance.

9. 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.]