IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 12060 OF 2022

M/s.Ravi Pushpam Infrastructure Developers. … Petitioner.
V/s.
State Bank of India and another. … Respondents.

Dr.Uday P. Warunjikar with Mr.Sumit S. Kate
for the Petitioner.
Mr.Charles D'Souza with Tamil Selvi Laxman, Raju Shinde
for Respondent No.1.
Mr.Harshad Algotkar, Deputy Manager, SBI is present.

CORAM : NITIN JAMDAR AND ABHAY AHUJA, JJ.

DATE : 17 January 2023.

P.C. :

On 6 January 2023, the following order was passed:

"Heard learned counsel for the parties. The Petitioner has sought to challenge the orders passed by the District Magistrate, Thane and the Tahsildar, Thane under section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. As per the settled law of the Hon'ble Supreme Court, the challenge to the action taken under the SARFESI Act would have to be raised in the Debts Recovery Tribunal. However, we note that in the earlier order dated 20 October 2022, where the statement of the Petitioner that the Petitioner was willing to pay certain amount and settle the matter was

recorded, pursuant to which the deposit was made by the Petitioner.

3. The matter is moved today on the ground that though the amount is deposited and the petition is pending and the DRT has deferred the hearing of the matter pending before it to 11 April 2023, the Respondent – bank has issued notice for possession. According to the Respondent–bank, the Petitioner was offered the one time settlement which it did not adhere to and the Respondent–bank was ready to extend another one time settlement for which the Petitioner gave no response, and therefore there being no interim order, the Respondent-bank has proceeded to issue possession notice.

4. Learned counsel for the Petitioner states that the Petitioner is still willing to approach the bank and give its offer.

5. We grant one week's time to the parties to arrive at a consensus, failing which the petition will have to be heard as whether interference in the writ petition is warranted. For that purpose, we defer the hearing of this petition to 17 January 2023.

6. It is open to the Petitioner to meet the officers of Respondent – bank with the proposal and it is for the Respondent–bank to consider the said proposal as per its policy.

7. In the light thereof, the action proposed by the Respondent – bank be deferred beyond the date of hearing of this petition by this Court."

2. The learned counsel for the Respondent- Bank states and which is clear from the arguments advanced before us that the parties have failed to arrive at consensus. Application is pending before the Debt Recovery Tribunal and the next date of hearing is 11 April

2023. Since the parties are already before the DRT, we do not intend to proceed further in writ jurisdiction. If the Petitioner or the Respondent makes a request before the DRT for preponement of the date of hearing, the DRT, if it is feasible to do so, will consider the same.

3. The learned counsel for the Petitioner states that pursuant to the order dated 7 October 2022 an amount of Rs.25 lakh has been deposited and the Respondent- Bank has wrongfully credited the same to No-Lien-Account and it should be adjusted towards the dues of the Petitioner. The learned counsel for the Respondent- Bank justifies the action. This aspect is left open for the Tribunal to consider.

4. As regards apprehension of the Petitioner regarding possession is concerned, the learned counsel for the Respondent-Bank clarifies that fresh notice for possession is not yet issued and the earlier one has lapsed and that as per the statutory provisions, fifteen days notice has to be given before taking possession. In light of this statement, no further order is necessary.

5. Writ petition is disposed of keeping all the contentions open to be adjudicated before the DRT.

(ABHAY AHUJA, J.) (NITIN JAMDAR, J.)