



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4898 OF 2023

(Union Bank of India, through its Authorized Officer and Constituted Attorney Shri Shivnath Tripathy Vs.
The State of Maharashtra & Ors.)

WITH WRIT PETITION NO. 3913 OF 2023

(Union Bank of India, through its Authorized Officer and Constituted Attorney Shri Pradipta Kumar
Mandal Vs. The Union of India & Ors.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

WP No. 4898/2023

Shri M.G. Bhangde, Senior Advocate with Shri S.D. Ingole, Advocate for the petitioner.

Shri A.A. Madiwale, Assistant Government Pleader for the respondents.

WP No. 3913/2023

Shri M.G. Bhangde, Senior Advocate with Shri S.D. Ingole, Advocate for the petitioner.

Shri N.S. Deshpande, Deputy Solicitor General of India for respondent no.1.

Shri Anand Parchure, Advocate for respondent no.2.

Shri R.R. Dawda, Advocate for respondent nos. 4 and 5.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : AUGUST 29, 2023

WRIT PETITION NO. 3913/2023

In response to the Pursis dated 9/8/2023 filed by respondent nos. 4 and 5 in which it has been stated that the Punjab National Bank has initiated proceedings under Section 95 of the Insolvency and Bankruptcy Code, 2016 against the said respondents, an additional affidavit has been filed on behalf of the petitioner dated 19/8/2023. We have heard the learned Counsel for the parties in the light of the Pursis dated 9/8/2023 filed by respondent nos. 4 and 5.

2] By an order passed on 9/8/2023, by noting the contents of the said Pursis it was directed that in the meanwhile, the petitioner should not deal with the subject property in any manner whatsoever. On hearing the learned Counsel for the parties, we find that the challenge raised in the Writ Petition is to the order of attachment dated 22/10/2014 that has been issued by respondent no.2 – Tax Recovery Officer (Central). The petitioner having advanced loan to respondent no.3 of which respondent nos. 4 and 5 were the guarantors challenged the order of attachment principally on the ground that under Rule 68B of the Second

Schedule to the Income Tax Act, 1961, the attachment could not survive beyond the period of three years. It is seen that the proceedings initiated by the Punjab National Bank are the subject matter of consideration before the National Company Law Tribunal and in case respondent nos. 4 and 5 are aggrieved by any steps taken in that regard, they are free to approach the Tribunal in that regard. We in these facts find that the direction issued against the petitioner not to deal with the subject property does not deserve to be further continued. The said direction is accordingly vacated.

3] Stand over 11/9/2023 for further consideration.

CIVIL APPLICATION NO. 2518/2023 IN WRIT PETITION NO. 4898/2023

4] This application has been filed by the applicants who have mortgaged the subject property with the petitioner – Bank against which proceedings have been initiated under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner seeks implementation of the order dated 31/7/2015 passed by respondent no.2.

5] In these facts, considering the limited prayer of the petitioner, we do not find any reason to permit the applicants to be impleaded as respondents. The applicants are free to take such steps as are permissible in law if they are aggrieved by the action taken by the secured creditor.

6] The Civil Application is therefore rejected.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

SUMIT