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

WRIT PETITION NO.1045 of 2023

Bank of Baroda, through its Authorized Signatory Shri Anil Kumar Jha
Vs.
The State of Maharashtra, through Home Ministry, Mumbai, through its Chief Secretary and others.

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

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Shri A.T.Purohit, Advocate for petitioner.
Shri Amit Madiwale, Assistant Government Pleader for respondent nos. 1 to 4.

CORAM :- SUNIL B. SHUKRE AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 14th FEBRUARY, 2023.

Shri A.T.Purohit, learned counsel for the petitioner submits that after filing of the writ petition the Authorities have handed over physical possession of secured assets to the petitioner and therefore nothing survives for adjudication in this writ petition.

2. He, however, submits that nowadays there is an increasing trend being witnessed in the field of action to be taken by the Authorities with regard to their power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the SARFAESI Act). He states that inaction on the part of Authorities in fully exercising their authority and powers under Section 14 of the SARFAESI Act results in the banks requiring to approach the High Court thereby increasing the work load of the High Court for the reasons otherwise avoidable on one hand and the secured assets possibly going waste on the other.

He submits that some of the Banks have also come across instances wherein the borrowers created third party interests because of inaction on the part of the Authorities.

3. The experience narrated to this Court by the learned counsel for the petitioner needs to be addressed properly. In fact, this Court has also come across many such instances of delays in taking proper action under Section 14 of the SARFAESI Act by the concerned Authorities. Difficulties faced by the Banks and the Financial Institutions in this regard can be mitigated, if some sensitization programme is arranged for the officers of the Banks and for the Authorities under the SARFAESI Act at Maharashtra Judicial Academy, Uttan and at Judicial Officers' Training Institute, Nagpur. We are of the view that if some initiative is taken in this respect by the Indian Banks Association, it would go a long way in effectively sensitizing the Bank Officers and also the various Authorities on the subject of Enforcement of Security Interest under Chapter-3 in the light of the provisions made under Section 14 of the SARFAESI Act. This is all the more necessary because there are recent pronouncements of law by the Apex Court and the High Court, in the case of *Balkrishna Rama Tarle Dead through LRs and another vs. Phoenix ARC Private Limited and others in Special Leave Petition No.16013 of 2022 decided on 26.09.2022* and *in the case of State Bank of India vs. State of Maharashtra and others* in Writ Petition No.1078 of 2022 decided on 28.02.2022, which are the cases in which a view has been taken that

the Chief Judicial Magistrate and the District Magistrate are not required to adjudicate the disputes between the borrowers and the secured creditors and that for seeking assistance of the Authorities under Section 14 of the SARFAESI Act, the Banks and Financial Institutions must not be made to approach the High Court by invoking it's extra ordinary jurisdiction under Article 226 of the Constitution of India.

4. Be that as it may, there is a need to pass a final order and we do so as follows:

The petition is disposed of as having served its purpose with a hope that appropriate initiative for organising sensitization programme for the officers of the Banks and the Authorities under the SARFAESI Act is taken by the Indian Banks Association.

No costs.

(MRS. VRUSHALI V.JOSHI, J.) **(SUNIL B. SHUKRE, J.)**

Andurkar..

Digitally Signed byJAYANT S ANDURKAR
Personal Assistant
Signing Date:
14.02.2023 16:32