



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

16 WRIT PETITION NO. 6836 OF 2024

**CHIKHALI URBAN CO OP BANK LTD THROUGH ITS
AUTHORIZED OFFICER**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH SECRETARY
AND OTHERS**

...

Shri L.H. Kawale, Advocate i/by Shri Suryawanshi Kamlakar J.,
Advocate for the Petitioner.

Shri N.S. Tekale, AGP for Respondent Nos.1 to 3/State.

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CORAM : RAVINDRA V. GHUGE

&

Y. G. KHOBRAGADE, JJ.

DATE :- 08th July, 2024

Per Court :-

1. We have heard the learned Advocates for the respective sides. The order of the District Magistrate passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short, “the 2002 Act”), is not being implemented by Respondent No.3/Tahasildar on the ground that after the District Magistrate passed the order, the son of the borrower approached the Trial Court and by suppressing the presence of the present Petitioner Bank, an order of status-quo has been obtained.

2. We find from the order dated 26.03.2024, passed by the learned Trial Court below Exhibit 5, in Special Civil Suit No.26/2024, that the son of the borrower, has filed the said suit for partition and separate possession, when the borrower is alive and the property is mortgaged to the Petitioner Bank. The learned Trial Court has only directed both the Defendants to maintain status-quo as to the title of the suit property.

3. The learned Advocate for the Petitioner Bank submits that the title to the suit property is verified by the Bank while extending the loan to the landlord, who is father of the Plaintiff and he is still alive and the property has been mortgaged by him.

4. If no further order has been passed by the Trial Court with regard to the possession of the suit property, we do not find that the order below Exhibit-5, could be an impediment to the Tahasildar to proceed to execute the direction of the District Magistrate.

5. We are refraining from initiating any action against

the said Tahasildar under Section 10 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005, in order to grant him one more opportunity for complying the order of the District Magistrate, keeping in view the law laid down by this Court at the Nagpur Bench vide the judgment dated 26.04.2022 in Writ Petition No.1078/2022 (*State Bank of India vs. The State of Maharashtra and others*) and the order of this Court at the Aurangabad Bench, dated 19.01.2023 passed in Writ Petition No.705/2023 (*Shri Chhatrapati Rajeshree Shahu Urban Cooperative Bank Ltd. vs. State of Maharashtra and others*). The order of the District Magistrate shall be executed by the Tahasildar within 30 days from today, by following the due process of law. Needless to state, the communication/ order at page No.76 dated 07.06.2024, would not survive and stands set aside.

6. In view of the above, the **Writ Petition is disposed off.**