
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.540 OF 2024

Capri Global Capital Limited

.. Petitioner

Versus

Ms.Jyoti Kadam & Ors.

.. Respondents

UTKARSH
KAKASAHEB
BHALERAO

Digitally signed by
UTKARSH KAKASAHEB
BHALERAO
Date: 2024.01.19
17:49:33 +0530

Mr.Nilesh Mandavkar i/b Anjana Kamal Mishra,
Advocates for the Petitioner.

Mr.A.I. Patel, Addl. G.P. a/w M.S. Bane, AGP for
State/Respondent.

Mr.Saleel Borwankar, Advocate for Respondent Nos.3, 4 & 5.

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : JANUARY 17, 2024

P. C.

1. The above Writ Petition is filed by the Petitioner seeking a direction to Respondent No.1/Ld. District Magistrate and Respondent No.2 Tehsildar, Pune to take, or cause to be taken, physical possession of the immovable property more particularly described in prayer clause (a) of the Writ Petition.

2. For ready reference, the description of the said property is set out herein below:-

"All piece and parcel of Plot No.4, area admeasuring 341 sq.mtrs. Cloud Nine, situated on Land Bearing S.R.No.46/1/2 and 46/1/3, village mohammadawdi, NIBM Road, Kondhawa, Taluka Haveli, District Pune, Maharashtra-411028."

3. This relief is sought because an order under Section 14 of the SARFAESI Act, 2002 has been passed on 29th May, 2023 and the same has not yet been executed/implemented.

4. Mr.Patel, the learned AGP has informed us that a notice of taking possession of the secured asset described above has already been issued to the concerned persons notifying them that possession of the secured asset would be taken on 14th February, 2024 at 9.00 a.m.

5. In view of the aforesaid statement made by Mr.Patel, we dispose of the above Writ Petition by directing the Tehsildar to take physical possession of the secured asset [mentioned above] on 14th February, 2024 at 9.00 a.m. and thereafter hand over the same to the Authorized Officer of the Petitioner/NBFC.

6. The Senior Inspector of Police of the local police station shall give all necessary assistance to the Tehsildar to ensure that he is able to take physical possession of the secured asset and hand over the same to the Authorized Officer of the Petitioner, failing which, the said Senior Inspector of Police shall be liable for contempt.

7. It is needless to clarify that this order is passed without prejudice to the rights of the borrowers to challenge the order passed under Section 14 of the SARFAESI Act, 2002 before the DRT under Section 17 of the said Act. We may further state that possession will be taken on 14th February, 2024 subject to any other order passed by the DRT if approached by the borrowers.

8. The Writ Petition is accordingly disposed of. However, there shall be no order as to costs.

9. Though we have disposed of the above Writ Petition, considering that possession is to be taken on 14th February, 2024, we place the above Writ Petition on board for reporting compliance on 15th February, 2024.

10. 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.

[SOMASEKHAR SUNDARESAN, J.]

[B.P.COLABAWALLA, J.]