
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 336 OF 2024

Hotel New Zalam & Ors.

.. Petitioners

Versus

Model Co-op. Bank Ltd. & Anr.

.. Respondents

Mr. Avinash Fatangare and Dinesh Rajpurohit i/b. Archana Shelar *for the Petitioners.*

Mr. R. Motwani *for the Respondent No.1.*

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.

DATE : JANUARY 15, 2024

P. C.

1. The above Writ Petition is filed by the Petitioners seeking a writ of mandamus directing the learned presiding officer DRT-I, Mumbai to decide Interim Application (Diary) No. 2700 of 2023. The alternative relief sought is to restrain Respondent No.1 from taking physical possession of (i) Flat No. 1903, 19th Floor, Bay View, Babasaheb Jaykar Marg, Thakurdwar Marg, Mumbai 400002; and (ii) Flat No. 205, 2nd Floor, Siddhesh Apartment, 2nd Khattar Lane, Thakurdwar Road, Mumbai 400002.

2. The learned Counsel appearing for the Petitioners submitted that the Petitioners have filed Interim Application (Diary) No. 2700 of 2023

pending before the learned Presiding Officer DRT-I, Mumbai and the same has not been decided till date. He submitted that in the said application, the Petitioners have sought an extension of four weeks to deposit the balance amount and in the meanwhile continue the order dated 27th July, 2023 passed by the Presiding Officer DRT-I, Mumbai in S.A. No. 147 of 2023. He submitted that the urgency in moving the above matter is because physical possession of the said flats mentioned above, is to be taken tomorrow.

2. The learned Advocate appearing for the Respondent-Bank vehemently opposed any relief being granted to the Petitioners. He submitted that firstly the date of taking possession was informed to the Petitioners more than 15 days back. Despite this, no praecipe has been moved before the learned Presiding Officer DRT-I, Mumbai either to take up the said Interim Application or seek any further interim relief. He submitted that the present matter is moved only to ensure that the physical possession of the secured asset is not to be taken tomorrow. He also pointed out that the interim order passed by the Presiding Officer on 27th July, 2023 was not complied with and hence, no relief ought to be granted to Petitioners.

3. We have heard the learned Counsel for the parties. We have also perused the papers and proceedings in the above Writ Petition. We find that the above Writ Petition is completely meritless. Ample opportunities were

given to the Petitioner to make payment of the outstanding amounts to regularize their account with the 1st Respondent-Bank. This exercise has been going on since July, 2023. Despite this, the account has not been regularized. In fact, according to the 1st Respondent-Bank, to regularized the account, approximately Rs. 82 Lacs would be payable by the Petitioners. When we inquired from the Petitioners as to when they would be able to pay this amount, the learned Advocate appearing for Petitioners requested that atleast eight weeks' time would be required. We find that this would be highly unreasonable considering that this discussion has been going on since July 2023.

4. In these circumstances, we find no merit in the above Writ Petition. It is accordingly dismissed. Purely out of mercy we do not impose any costs. Accordingly, there shall be no order as to costs.

5. 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.]