

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 622 OF 2024

WITH

INTERIM APPLICATION NO. 623 OF 2024

IN

WRIT PETITION NO. 375 OF 2024

Thakare Multitherapy Hospital Pvt Ltd & Ors ...Applicants

IN THE MATTER BETWEEN

IIFL Home Finance Ltd ...Petitioner

Versus

The State of Maharashtra & Ors ...Respondents

Mr. Shashank N. Fadia, *Advocate for the Petitioner.*

Mr. Aseem Naphade, i/b Swapnil Newaskar, *Advocate for Applicants in both IAs.*

Mrs. M.S. Bane, AGP, *for Respondent-State.*

Mr. Parul Sharma, *Authorised Officer, present for IIFL-Petitioner in WP/375/2024.*

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

DATE : JANUARY 16, 2024

PC :

- Interim Application No. 622 of 2024 is filed by the Applicants-Borrowers seeking the following reliefs:

“A. The intervening applicant any please be allowed to intervene in above matter and may be added as respondent.

B. Notice dated 05/01/2024 issued by Tahsildar, Vasai may please be set aside.

C. Order dated 15/01/2024 passed by this Hon’ble Court in present Writ Petition may please be set aside.”

2. Interim Application No. 623 of 2024 is again filed by the Applicants-Borrowers seeking the following reliefs:

“A. Pending Final Hearing and disposal of intervening application, the operation of Notice dated 05/01/2024 issued by Tahsildar, Vasai scheduling possession of properties of intervening applicants on 17/01/2024 may please be stayed.

B. Pending Final Hearing and disposal of intervening application, the operation of Order dated 15/01/2024 passed by this Hon’ble Court in present Writ Petition may please stayed.”

3. Mr. Naphade, the Learned Counsel appearing on behalf of the Applicants submitted that though these are the reliefs sought for, he is not pressing the same and is only requesting that possession of the secured assets more particularly set out in the order dated 15th January

2024 be deferred by few days. This request is made on the basis that the possession notice, though dated 5th January 2024, was only served on the Applicants-Borrowers 12th January 2024.

4. On the other hand, Mr. Fadia, the Learned Counsel appearing on behalf of the Petitioner, vehemently opposed the aforesaid request of Mr. Naphade for deferring the taking of possession of the secured assets. He submitted that admittedly there is no order restraining the Bank from taking possession of the secured assets and it is after great difficulty that the date of 17th January 2024 has been fixed. He, therefore, submitted that the aforesaid request of Mr. Naphade, ought not to be entertained at all.

5. We have heard Mr. Naphade as well as Mr. Fadia on this limited aspect. It is not in dispute that the possession notice was served on the Applicants-Borrowers only on 12th January 2024. By our order dated 15th January 2024, we had directed that the physical possession of the secured assets be taken on 17th January 2024 as per the statement made by the Learned AGP.

6. Purely out of mercy and nothing more, we direct that instead

of 17th January 2024, the Tehsildar shall take physical possession of the secured assets (as mentioned in the order dated 15th January 2024) on 22nd January 2024. It is made clear that the Applicants-Borrowers shall not be entitled to claim any equities by virtue of this order. It is further clarified that this indulgence is granted on the basis that the action of the Bank for taking over possession on 22nd January 2024 is not being challenged by the Applicants-Borrowers either before the DRT or before any other forum. This action of the Bank will obviously be subject to the outcome of the Securitisation Application that is already filed and pending before the DRT.

7. It is needless to clarify that all other directions given in the order dated 15th January 2024 shall continue and only the date of taking possession of the secured assets has been changed from 17th January 2024 to 22nd January 2024.

8. We are informed that the Securitization Application filed by the Applicants-Borrowers is coming up for final hearing on 20th February 2024. If that be the case, we would request the DRT to hear and dispose of the said Securitization Application on the said date, time permitting.

9. Both the above Interim Applications are disposed of in the aforesaid terms. However, there shall be no order as to costs.

10. Considering that the possession is now to be taken by the Tehsildar on 22nd January 2024, we place the above Writ Petition for reporting compliance on 23rd January 2024.

11. 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.]