
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1212 OF 2024
IN
WRIT PETITION NO.348 OF 2024

Prakash Dhanjibhai Shingala Applicant

IN THE MATTER BETWEEN

SVC Co-operative Bank Ltd. & Ors. Petitioners

Versus

The State of Maharashtra & Ors. Respondents

Ms Priya Ranade a/w. *Ms Nupur Desai i/b. M/s. Markand Gandhi & Co., Advocates for Applicants.*

Mr. Charles D'souza a/w. *Mr. Nikhil Rajani i/b. Mr. V. Deshpande & Co., for Petitioners.*

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

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

DATE : FEBRUARY 06, 2024

P. C.

1. The above Interim Application is filed seeking to recall and set aside the Order dated 16th January, 2024 passed by this Court in the above Writ Petition.

2. The above Writ Petition was filed seeking implementation of the Order dated 31st July, 2012 passed by the District Magistrate, Thane under Section 14 of the Securitisation And Reconstruction of Financial Assets And Enforcement of Security Interest Act, 2002 (***"SARFAESI Act"***).

3. Since the order was not been implemented, on 16th January, 2024, we disposed of the above Writ Petition by directing the Tehsildar to take possession of the secured assets today. The fact that possession would be taken today was to the notice of the borrowers as well as the Applicant. This is clear from Paragraph 2.6 of the Interim Application, which categorically states that Respondent No.2 has issued a notice dated 24th January, 2024 scheduling physical possession of the secured assets on 6th February, 2024 at 11.30 a.m. It is this order that the Applicant seeks to recall. We find that the Order dated 16th January, 2024 has already been fully complied with and possession of the secured assets is taken today and handed over to the Authorized Officer of the Petitioner-Bank.

4. We are also made aware that the Applicant herein has filed Securitisation Application No.114 of 2016 before the DRT-III, Mumbai. We, therefore, dispose of the above Interim Application by clarifying that merely because possession is taken pursuant to the

order passed by us, will not preclude the DRT from restoring back possession to the Applicant herein if such an application is filed before the DRT and the DRT finds that a case is made out for restoring the possession.

5. We make it clear that we have not opined on the merits of the matter. If such an application is filed, the same shall be decided by the DRT on its own merits in accordance with law uninfluenced by our order dated 16th January, 2024.

6. Considering that Securitisation Application No.114 of 2016 is pending since the last eight years, we direct the DRT to hear and decide the said Securitisation Application within a period of eight weeks from today.

7. The Interim Application is accordingly disposed of. However, there shall be no order as to costs.

8. 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.]