

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1038 OF 2024

WITH

WRIT PETITION (ST) NO. 6059 OF 2024

Religare Finvest Ltd.

...Petitioner

Versus

State of Maharashtra through the Resident Naib
Tehsildar & Ors

...Respondents

WITH

REVIEW PETITION NO. 25 OF 2024

IN

WRIT PETITION NO. 1038 OF 2024

M/s. Shankarrao Pawar Seat Corner & Ors

...Petitioners

Versus

Religare Finvest Ltd

...Respondent

Mr. Charles D'souza, Archit Virmani & Radhika Kabra, Advocates
for the Petitioners in WP/1038/2024 & WPST/6059/2024.

Mr. S.S. Kothiya, i/b R.A. Kamble, Advocates for Respondent
Nos.4 to 7 in both Writ Petitions & for Petitioners in
RPW/25/2024.

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

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

DATE : FEBRUARY 29, 2024

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ASHWINI
JANARDAN
VALLAKATI
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PC :

1. By our order dated 27th February, 2024 we had recorded a statement on behalf of the Borrowers i.e., Respondent Nos.4 to 7 (in both the above Writ Petitions) that physical possession of the secured asset would be handed over to the Petitioner-NBFC by 4:00 pm on 28th February, 2024. Since this was the statement, we placed the matters on board for reporting compliance today, and also stated that we would pass further orders and directions.

2. Just to recapitulate, Writ Petition No.1038 of 2024 was disposed of by our order dated 6th February, 2024. By the said order, physical possession of the secured asset was ordered to be taken on 23rd February, 2024 at 10:00 am. We had made it clear that the order dated 6th February, 2024 was subject to any order that may be passed by the DRT, if approached by the Borrowers or any other aggrieved party. When the matter had come up on 26th February, 2024, it was pointed out that our order dated 6th February, 2024 was not complied with.

3. It appears that on 20th February, 2024 the Borrowers did approach the DRT by filing Securitization Application (D) No.443 of 2024. In this Securitization Application, the Borrowers filed Interim

Application No.433 of 2024 seeking to restrain the Petitioner -NBFC from taking physical possession of the secured asset. This Interim Application No.433 of 2024 was dismissed by the DRT by an order 23rd February, 2024. After the aforesaid order was passed and uploaded by the DRT, the Borrowers moved another Interim Application, being Interim Application No.505 of 2024, on the very same date. On this Interim Application, surprisingly, the DRT, without hearing the Petitioner-NBFC passed an order staying the taking of physical possession of the secured asset on certain conditions as set out in the said order. This order of the DRT passed in Interim Application No.505 of 2024 is challenged in Writ Petition (ST) No.6059 of 2024. All these facts were recorded by us in our order dated 27th February, 2024. On 27th February, 2024, when we enquired from the Borrowers how the DRT, after dismissing Interim Application No.433 of 2024 could have passed an order in Interim Application No.505 of 2024 staying the taking of physical possession of the secured asset, the Borrowers were unable to defend the order. It is in this light that the Borrowers made a statement that they would hand over physical possession of the secured asset to the Petitioner-NBFC by 4:00 pm on 28th February, 2024. This has now been complied with and physical possession of the secured asset has been handed over to the Authorised Officer of the Petitioner-

NBFC. Once this is the case, we are of the considered view that the order of the DRT dated 23rd February, 2024 passed in Interim Application No.505 of 2024 cannot stand and is, therefore, hereby set aside. Consequently, Writ Petition (ST) No.6059 of 2024 is allowed to that extent. Since possession of the secured asset is already handed over to the Petitioner-NBFC, the other prayers in the said Writ Petition are rendered infructuous.

4. As far as the Review Petition is concerned, namely, Review Petition No.25 of 2024 filed by the Borrowers, the learned Advocate appearing on behalf of the Review Petitioners (the Borrowers) fairly stated that since possession is already been handed over, nothing would survive in the above Review Petition and sought leave to withdraw the same. In these circumstances, the above Review Petition is dismissed as withdrawn.

5. As far as Writ Petition No.1038 of 2024 is concerned, as mentioned earlier, the same was already disposed of by our order dated 6th February, 2024. Hence, no further orders are necessary in the said Writ Petition.

6. All the above matters are accordingly disposed of. However, there shall be no order as to costs.

7. 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.]