

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3085 OF 2024

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PNB Housing Finance Limited

.. Petitioner

Versus

1. The State of Maharashtra
through the office of the Govt. Pleader,
High Court, & 2 Ors.

...Respondents

Mr.Smit Shah a/w. *Mr.Abdul Rehman Momin, Advocate for Petitioner.*

Mr.A.I. Patel, Addl. G.P. a/w. *Ms.M.S. Bane, AGP for Respondent
Nos.1 to 3.*

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

DATE : APRIL 01, 2024.

P C:

1. The above Writ Petition is filed seeking a direction to Respondent No.3 (The Naib Tahsildar, Pune) to execute the order dated 28th August 2023 passed by the District Magistrate, Pune under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The learned AGP has tendered a notice dated 21st March 2024 in which it is stated that physical possession of the secured assets namely, *Flat No. 553 and 563, 5th floor, Building No.5, Clover Citadel C HSL, Opposite Salunkhe Vihar Society, S.No.62/2 to 8, Wandwadi, Pune-411 040 and Flat No. 453 and 463, 5th floor & 6th floor, Building No.4, Clover Citadel C HSL, Opposite Salunkhe Vihar Society, S.No. 62/2 to 8, Wandwadi, Pune – 411 040* shall be taken on 8th April 2024.

3. Considering the aforesaid notice, we dispose of the above Writ Petition by directing that physical possession of the secured assets shall be taken by Respondent No.3 on 8th April 2024 commencing from 11:00 a.m. The Senior Police Inspector of the local police station is directed to give all necessary assistance (including deputing adequate number of police personnel) to Respondent No.3 to ensure that physical possession of the secured assets is taken, and thereafter handed over to Authorized Officer of the Petitioner-NBFC, failing which the concerned Senior Police Inspector shall be liable for contempt of this order. All costs, charges and expenses for providing police assistance shall be paid by the Petitioner. The Authorised Officer of the Petitioner shall also remain present at site to take over physical possession of the secured assets from Respondent No.3.

4. We may hasten to add that this order of taking physical possession on 8th April 2024 is subject to any order that may be passed by the Debt Recovery Tribunal, if approached by the borrowers or by any aggrieved party. In other words, the DRT is free to restrain the Petitioner-NBFC from taking possession of the secured assets if it finds any merit in any application filed before it by the borrower or by any aggrieved party.

5. It is needless to clarify that we have not opined on the merits of the matter which shall be adjudicated by the DRT, if approached by the borrower or any other aggrieved party.

6. The above Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

7. Though we have disposed of the above Writ Petition, we place the same on Board for reporting compliance 10th April 2024.

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.]