

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3877 OF 2024

Assets Care Reconstruction
Enterprise Limited ..Petitioner

Versus

State of Maharashtra & Anr ..Respondents

Mr.Charle D'souza, with Mr.Mayant Samuel,
Advocates for the Petitioner.

Mr.K. B. Dighe, Addl.G.P., with Ms.Dhruti Kapadia,
AGP, for the Respondent/State.

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : APRIL 30, 2024

P.C.

The above Writ Petition is filed to direct Respondent No.2 (The Court of the Chief Judicial Magistrate, Nashik) to hear and decide the substitution application filed by the Petitioner [on 29th April, 2023] as expeditiously as possible. The application filed before Respondent No.2 [the Magistrate] is an application seeking assistance of the Magistrate under Section 14 of the SARFAESI Act 2002. The underlying debt has been assigned in favour of the Petitioner, and because of this, an application for substitution is made before the Magistrate, and which is not yet decided.

2 Considering the limited relief that is sought in the above Writ Petition, we dispose of the same by directing that the substitution application filed by the Petitioner on 29th April, 2023 shall be decided by the Magistrate as expeditiously as possible and in any event within a period of four weeks from today. Once the substitution application is decided, the Magistrate shall also decide the Section 14 application within a period of four weeks thereafter.

3 We make it clear that the Magistrate shall not entertain any applications by any borrowers or any third party, as the right of audience is not given to anyone under Section 14 of the SARFAESI Act, 2002 as held by the Hon'ble Supreme Court in several decisions.

4 The Writ Petition is accordingly disposed of. However, there shall be no order as to costs.

5 Even though we have disposed of the above Writ Petition, in order to ensure of reporting compliance, we place the above matter on 1st July, 2024.

6 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.]