

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8953 OF 2023

Equitas Small Finance Bank Ltd

...Petitioner

Versus

The State of Maharashtra & Anr

...Respondents

Mr. R.L. Motwani, Advocates for the Petitioner.

Mr. A.I. Patel, Addl.GP, a/w T.D. Goswami, AGP, for
Respondent-State.

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

DATE : APRIL 23, 2024

PC :

1. The above Writ Petition is filed seeking a direction to the Respondent to execute the order dated 9th August, 2019 passed by the District Magistrate, Thane under Section 14 of the Securitisation and Reconstruction of Financial Asset and Enforcement of Security Interests Act, 2002. The secured asset in question is Shop No.9 in Ground Floor, admeasuring area 412 sq.ft. built-up in “Ganga Godavari Apartment”, lying being and situated at S.No.57A, Hissa No.4, Village Kaemanivli, Kalyan (E)- 421 306.

2. Considering that this is the limited relief sought in the above Writ Petition, we dispose of the above the Writ Petition by directing Respondent Nos.2 and 3 to take physical possession of the secured asset on 10th May, 2024 at 11:00 a.m.. The notice of the date of taking possession of the secured asset shall be immediately served by the Tehsildar on the borrowers informing them that possession shall be taken on 10th May, 2024 at 11:00 a.m.. For the purposes of ensuring that physical possession is taken on the said date, the Senior Police Inspector of the local Police Station is directed to provide all police assistance to the Tehsildar (including deputing adequate number of police personnel) to assist the Tehsildar in taking physical possession of the secured asset and thereafter handed over the same to the Authorised Officer of the Petitioner. All necessary costs, charges and expenses for the said police assistance shall be paid by the Petitioner. We make it clear that if for any reason, the police protection is not provided, we will not hesitate to hold the concerned Senior Police Inspector in contempt.

3. We may further clarify that this order of taking possession on 10th May, 2024 is subject to any order that may be passed by the Debts Recovery Tribunal (“DRT”), if approached by the borrowers. In other words, the DRT is free to restrain the Petitioner-NBFC from taking

physical possession of the secured asset if it finds any merit in the case advanced before it by the borrowers.

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

5. Though we have disposed of the Writ Petition, we place the same on board for reporting compliance on 10th June, 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.]