

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15543 OF 2023

RBL Bank

..Petitioner

Versus

State of Maharashtra & Ors

..Respondents

ANJALI
TUSHAR
ASWALE

Digitally signed by
ANJALI TUSHAR
ASWALE
Date: 2024.04.23
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Mr.Meghnath Navlani, Advocates for the Petitioner.

*Mr.K.B. Dighe, Addl.G.P., with Mr. S. L. Babar, AGP,
for the Respondent/State.*

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**
DATE : APRIL 22, 2024

P.C.

The above Writ Petition is filed seeking the following
reliefs:-

- (a) That, this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India and direct the Respondent No.1 to 5 to execute the Order dated 29.05.2023 passed by Ld.District Magistrate, Solapur in Securitization Application No. SECU/SR/73/2023 and take physical possession of the subject property as mentioned in **Schedule-I** within a stipulated time period as may be fixed by this Hon'ble Court and further direct them to hand over the physical possession thereof to the Petitioner as expeditiously as possible.
- (b) In the alternative, this Hon'ble Court be pleased to appoint Court Receiver, High iCouort, Bombay as Receiver inter alia directing the Court Receiver to take appropriate steps for

taking physical possession of the subject property as mentioned in **Schedule-I** with reasonable force which includes the breaking open of lock (s), wherever necessary and also direct the concerned Police Station i.e. Respondent No.4 and 5 to provide help / assistance in taking physical possession of the subject property, the Court Receiver be directed to hand over the same to the Petitioner as expeditiously as possible.”

2 In the present matter, the Petitioner has initiated proceedings under the provisions of the SARFAESI Act, 2002 and also obtained the order under Section 14 thereof from the District Magistrate, Solapur.

3 A grievance in the present Petition is that despite the said order being passed as far back as on 29th May 2023, the said order has not yet been implemented. Considering limited relief sought in the above Writ Petition, we dispose of the above Writ Petition by directing Respondent Nos.2 and 3 to take physical possession of the secured asset, being Residential property No. A-9, Second floor, Tarangal Apartment, City SN 8426-A/1, F. P. No. 159+160/186, Damani Nagar, Laxmi Peth, Solapur, on 15th May, 2024 at 11.00 a.m.

4 To enable Respondent Nos.2 and 3 to ensure that physical possession of the secured asset is taken, the local Police Station, namely Respondent No.4, shall give all necessary

assistance (including deputing adequate number of Police Personnel) to ensure that physical possession of the secured asset is taken from the borrowers (Respondent Nos.6 and 7) and handed over to the Authorized Officer of the Petitioner bank, failing which the said Senior Police Inspector shall be liable for contempt. A copy of this order shall also be served by Respondent Nos.2 and 3 as well as the Petitioner on Respondent Nos.6 and 7 who are joined as the borrowers in the above Writ Petition.

5 We clarify that this order of taking possession on 15th May, 2024 is subject to any order that may be passed by the DRT, if approached by the borrowers. In other words, the DRT is free to restrain the Petitioner Bank from taking physical possession of the secured asset if it finds any merit in the case advanced before it by the borrowers.

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 on 10th June, 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.]