
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14932 OF 2023

Omkara Assets Reconstruction Pvt. Ltd. & Anr. .. Petitioners

Versus

The State of Maharashtra & Ors. .. Respondents

Adv. Nikhil Rajani i/b. V. Deshpande *for the Petitioners.*

Mr. A. I. Patel, Addl.GP a/w M.S. Bane, AGP *for the Respondent Nos. 1 to 5.*

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

DATE :FEBRUARY 05, 2024

P. C.

1. The above Writ Petition is filed seeking a mandamus to Respondent No.2 to execute and implement the order dated 4th August, 2022 passed by Respondent No.1 [District Magistrate] under Section 14 of the SARFAESI Act, 2002.

2. Today when the matter is called out, Mr. Patel, the learned Addl. GP, on instructions, has informed the Court that the date fixed for taking physical possession of the secured assets, more particularly described at

Exhibit-A to the above Petition is 12th February, 2024. For the sake of convenience, the description of the property of which the possession has to be taken is reproduced hereunder:

- “i. 1st floor, admeasuring at about 5042 sq.ft. Super built up area in “A” Wing consisting of commercial premises in the building known as ‘Siddheshwar Arcade’, Siddheshwar Arcade Co-operative Housing Society Limited, Survey No.128, Hissa No. 1(B), village Kalwa, off. Mumbai Pune Road, Manisha Nagar, Kalwa (W), District Thane.*
- ii. Flats on 3rd floor, admeasuring at about 2728 sq.ft. (saleable area), of building known as ‘Siddheshwar Arcade’, Siddheshwar Arcade Co-operative Housing Society Limited, Survey No.128, Hissa No. 1(B), village Kalwa, off. Mumbai Pune Road, Manisha Nagar, Kalwa (W), District Thane.*
- iii. Flat on 4th floor, admeasuring at about 3424 sq.ft. (saleable area), of building known as ‘Siddheshwar Arcade’, Siddheshwar Arcade Co-operative Housing Society Limited, Survey No.128, Hissa No. 1(B), village Kalwa, off. Mumbai Pune Road, Manisha Nagar, Kalwa (W), District Thane.”*

3. Considering the statement made by the learned AGP, we dispose of the above Writ Petition by directing Respondent No.2 to take physical possession of the properties described hereinabove on 12th February, 2024 at 11.00 am.

4. To ensure that Respondent No.2 can take physical possession of these properties and hand them over to the authorized officer of the Petitioners, the Senior Police Inspector of the Kalwa Police Station shall give all necessary assistance [including deputing adequate number of police personnel] to Respondent No.2, so that he can take physical possession of the above mentioned properties and hand them over to the authorized officer of the Petitioners, failing which, the said Senior Police Inspector shall be liable for contempt.

5. It is needless to clarify that all costs, charges and expenses for the aforesaid police assistance shall be paid by the Petitioners.

6. It is also needless to clarify that this order will not preclude the borrower and/or any other aggrieved party from approaching the DRT under Section 17 of the SARFAESI Act, 2002 and seek a stay on the possession order passed by the District Magistrate under Section 14 of the SARFAESI Act, 2002. If the DRT is approached, the DRT shall decide the matter on its own merits without being influenced by this order.

7. The above Writ Petition is disposed of in the aforesaid terms. No order as to costs.

8. Though we have disposed of the above Writ Petition, we place the same on board on 13th February, 2024 for reporting compliance.

9. 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.]