

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.19516 OF 2024

The Orchid School

.....Petitioner

Vs.

Thane Bharat Sahakari Bank Ltd. & Ors.

.....Respondents

Mr. Anita Castellino with Ms. Malaika Castellino i/b. Mr. Bruno Castellino, for the Petitioner.

Mr. Charles D'Souza (Through VC) with Mr. Nikhil Rajani, Mr. Shreyansh Desai i/b. M/s. V. Deshpande & Co., for Respondent No.1.

Ms. Kavita N. Solunke, AGP, for Respondent Nos.2 and 3-State.

Mr. Kamlesh Ghumre (Through VC) with Ms. Sonali Jadhav, for Respondent No.5.

**CORAM : DR. NEELA GOKHALE AND
ASHWIN D. BHOBE, JJ.
(VACATION COURT)**

DATE : 31st DECEMBER 2024.

P.C.:-

1) The Petitioner seeks a direction for return of the possession of the subject property and a special direction to unseal the water-pumps and elevator illegally sealed by the Respondent No.1.

2) The Petition was mentioned for urgent circulation and production in view of the fact that the Petitioner is a school which is to re-open on 2nd January 2025. In view of the urgency in the matter and to the limited extent of consideration of the students of the school to

use the elevator, the toilets and the canteen of the school located on the terrace and the basement of the premises, we allowed production and placed the matter at the end of the board today.

3) We have heard Mr.D'Souza, learned counsel appearing for the Bank and Mr. Kamlesh Ghumre, learned counsel appearing for Respondent No.5-Education Society. Ms.Solunke, AGP represents the Respondent Nos.2 and 3.

4) Only with an object of facilitating the students from enjoying access to the school facilitates. Mr.Desouza, learned counsel for the Respondent No.1-Bank, on instructions, has agreed to the following:

“1. The Respondent No. 1 will grant daily access, for a period of 1 week, to the areas of the property, the possession of which was taken by the Tahsildar and handed over to the Authorised Officer of the Respondent No. 1 on December 24, 2024 ("Secured Assets"), in compliance of the order dated December, 9, 2024 passed by this Hon'ble Court.

2. Such daily access shall commence 1 hour before regular class timings and conclude 1 hour after regular class timings. Thereafter, the Authorised Officer of the Respondent No. 1 shall reseal the Secured Assets and retain custody of the same.

3. In consideration of the above access, the Petitioner undertakes to this Court to ensure that all persons who enter the Secured Assets during the above access window

duly, vacate the same at the end of the access window each day and the Secured Assets or the fixtures therein shall not be damaged in any manner.

4. The above arrangement on daily access, which has been granted in view of the interest of the students, shall continue for a period of 2 weeks from today during which time the DRT is requested to decide the Application filed by the Petitioner.”

5) Ms. Castellino, learned counsel appearing for the Petitioner consents to the suggestions and concessions made by Mr.D’Souza on behalf of the Bank.

6) In view of the aforesaid arrangement, the facilities mentioned above will be afforded to the students of the Petitioner-school for the period of two weeks from today.

7) In the meantime, the Petitioner will approach the DRT where an application made by the Petitioner is already pending. The DRT is requested to hear the Application within a period of ten days from today.

8) With the aforesaid directions the Petition is disposed of.

9) All rights and contentions of the parties are kept open and the DRT shall decide the Application uninfluenced by any observations in this order and entirely on the merits of the case.

10) All the statements made by the parties in terms of the

concessions mentioned herein above are accepted as undertakings to this Court.

11) Liberty is given to the Petitioner to initiate appropriate proceedings, in the event the DRT fails to hear the parties expeditiously.

(ASHWIN D. BHOBE, J.)

(DR. NEELA GOKHALE, J.)