

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

APPEAL FROM ORDER NO.479 OF 2024

M/s. Cjex Biochem Pvt. Ltd.
and another

.....Appellants

Versus

Board of Directors of Pegasus Assets
Reconstruction Private Limited
and others

....Respondents

Mr. Mathew Nedumpara, Advocate a/w. Hemali, Rahul
Yadav, Akhilesh Nair i/b. Nedumpara & Nedumpara for the
Appellants.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th JUNE, 2024

P.C. :

1. This A.O. was mentioned on behalf of the Appellants and considering the urgency, it was kept on the production board.

2. The Respondents are not given notice of this production. However, learned counsel appearing for the Appellants states that there is extreme urgency in this matter and, therefore, he is seeking urgent orders. He is seeking a

short adjournment by which time the Respondents can be served.

3. The Appellants have filed Suit No.1043/2023 before the City Civil Court at Bombay against the Respondents herein with various prayers. Basically their grievance is that the Defendants are taking action inspite of the notification S.O. No.1432(E) dated 29.05.2015. According to learned counsel for the Appellants, the Defendant No.4 could not have declared the loan taken by the Appellants in the category of N.P.A. without applying the same notification.

4. Learned counsel further submitted that the condition mentioned in the sanction letter dated 3.1.2020 mentions that the first EMI of Rs.1 Lakhs was to fall on 5.1.2020. But before that it was declared as Non Performing Asset on 4.1.2020. According to Shri Nedumpara that was not permissible. He invited my attention to the impugned order passed by the learned Judge on 13.6.2024. There is a reference of a Division Bench judgment of this Court dated

11.1.2024 and there was a reference to the Writ Petition filed by the Appellants herein. The learned Judge has observed that based on the observations of the Division Bench, he was of the opinion that the Civil Court should not deal with these matters.

5. Learned counsel for the Appellants submitted that the Appellants have approached the Hon'ble Supreme Court against the order of the Division Bench and the matter is under consideration before the Hon'ble Supreme Court. He further submitted that the issue involved in the present A.O. is different from the decision of the Division Bench in respect of that particular notification.

6. He further submitted that there is extreme urgency because the family of the Directors of the Appellant No.1 is residing in the flat from where the entire family is sought to be dispossessed by the Respondent No.1 herein. The family consists of seven family members including a senior citizen. Therefore, no prejudice would be caused to the Respondents, if the matter is heard on any other date

within a short time. He has tendered a copy of the notice dated 4.6.2024 issued by the advocate Court Commissioner to the Commissioner of Police, Greater Mumbai and Senior Inspector of Police, Gavdevi Police Station, which is taken on record.

7. Considering the submissions made by learned counsel for the Appellants, it is necessary to seek response from the Respondents.

8. Hence, the following order:

ORDER

- (i) Issue notice to the Respondents returnable on 4.7.2024.
- (ii) Till the next date, the Respondents shall not take possession of the secured asset viz., Flat No.9, 2nd floor, Seeta Mahal Co-operative Housing Society, 12A, Bomanji Petit Road, Near Kemps Corner, Peddar Road, Mumbai-400026, which is mentioned in the notice dated 4.6.2024 sent by the Court Commissioner.
- (iii) Stand over to 4.7.2024.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

(SARANG V. KOTWAL, J.)