IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 242 OF 2024

Bank of Baroda ...Petitioner

Versus

Niwasi Nayab Tahsildar Cum Executive Magistrate ...Respondent

Ms. Akshaya Puthran, *a/w Nitin Jain, i/b S.K. Singhi & Partners LLP, Advocates for the Petitioner.*

Mr. Manish Upadhyay, AGP, *for Respondent-State.*

Mr. Vilas Narayan Khre, *Nayab Tehsildar, Baramati, present in Court.*

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : FEBRUARY 06, 2024

PC :

1. By our order dated 15th January, 2024, we had directed that the physical possession of the secured assets namely, Atharv Bungalow at Plot No.69 & Residential NA Plot No.16, Plot No.17 and 18, Sahyog CHSL, Gat No.129 and 130, Opp. Mahanager Bank, Bhigwan Road, Village Jalochi, Tal. Baramati, Dist. Pune would be taken on 5th February, 2024 by 11:00 am. Thereafter, by our order dated 1st February, 2024 we had clarified that the order passed by us on 15th January, 2024

ASHWINI JANARDAN VALLAKATI Digitally signed by ASHWINI JANARDAN VALLAKATI Date: 2024.02.06 18:56:17 +0530

will be subject to any order passed by the DRT in the Securitization Application already filed by the Borrower.

2. Today when the matter is called out, we are informed that the DRT has passed an order dated 5th February, 2024 (in the Securitisation Application filed by the Borrower) granting a stay for taking possession of the secured asset subject to the Applicant depositing a sum of Rs. 7,72,20,000/- by 25th March, 2024. Out of this amount the Borrower was directed to deposit of 1,22,20,000/- by 3:00 pm on 5th February, 2024. This has been duly complied with by the Borrower.

3. It is in these circumstances, that the Tehsildar has not taken possession of the secured assets. We find that in light of the order passed by the DRT, in the Securitisation Application filed by the Borrower, the Tehsildar has acted correctly and did not take the possession as the condition imposed on the Borrower has been partly complied with. It is needless to clarify that if the balance amount of Rs.6 Crores, which the Borrower has to deposit as per the order of the DRT is not complied with, the Bank (Bank of Baroda) is free to execute a Section 14 order already passed and approached the Tehsildar to take physical possession of the secured assets. If the Tehsildar is so

approached, then, he shall take physical possession of the secured assets on a date convenient to the Bank as well as to him and he shall approach the local Police Station for any assistance he may require for taking physical possession. If the local Police Station is approached by the Tehsildar, they shall give all necessary assistance to him for ensuring that he is able to take physical possession of the secured assets and handover the same to the Authorized Officer of the Bank of Baroda.

4. 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.]**

Ashwini Vallakati