
IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 1249 OF 2024**

Kishor Himatlal Mehta

..Petitioner

Versus

Union Bank of India & Anr

..Respondents

None for the Petitioner

Mr.Charles D'souza, with *Mr.Roshan Gaud, Rupak Swangikar i/b Orbit Law Services, Advocates for the Respondent.*

Ms.Sonali Dalvi i/b Deepak Chitnis Chiparikar & Co, for the Applicant in IA.

**CORAM : B. P. COLABAWALLA, &
M. M. SATHAYE, JJ.****DATE : MAY 3, 2024
(in chambers)****P.C.**

The above Writ Petition was disposed of by our order dated 29th February, 2024 by taking Consent Terms on record entered into between the Petitioner and Respondent No.1. We had also taken on record the OTS sanctioned by Union Bank of India. Under the Consent Terms certain payments were to be made in a time bound manner. Since these payments were not made, we had directed the Advocate Commissioner, Mr.Wilson Vasant Gaikwad, and who was already appointed as the Court Commissioner to take physical possession of the secured asset described in paragraph 1(iii) of the Consent Terms on 12th April, 2024 commencing from

11.00 a.m. We had kept the matter on Board on 15th April, 2024 for reporting compliance. Thereafter, on 15th April 2024, we were informed that out of the 9 storied residential building (the secured asset), more particularly described in paragraph 1 (iii) of the Consent Terms, possession was taken of all floors except the 2nd floor and the 5th floor. The person who was in occupation of the 2nd floor requested for time to vacate till 27th April, 2024. As far as the person occupying the 5th floor was concerned, the learned counsel appearing on behalf of the said party (Krishna Developers Private Limited) also stated that they would vacate the 5th floor by 27th April, 2024. In these circumstances, we had kept the matter on 29th April, 2024. Thereafter, the matter was before us on 26th April, 2024 when Krishna Developers Private Limited sought some further accommodation till 2nd May, 2024 to vacate the premises that were in their occupation.

3 Considering these circumstances, and purely on humanitarian ground, we directed that Krishna Developers Private Limited shall handover vacant and peaceful possession of the 5th floor premises to the Authorized Officer of the 1st Respondent bank on 2nd May, 2024 at 11.00 a.m. We had also directed that a written undertaking to that effect shall be filed by the Directors of Krishna

Developers Private Limited by 29th April, 2024 and copy of the same shall be served on the advocates for the 1st Respondent bank.

4 Today when the matter is called out, the advocate for Krishna Developers Private Limited has tendered an undertaking which is taken on record and marked “X-2” for identification.

5 Mr.D’Souza, the learned counsel appearing on behalf of Respondent No.1, has also stated that possession of the 2nd floor as well as the 5th floor of the 9 storied building has been handed over to the Authorized Officer of Union Bank of India. In other words, our orders have been fully complied with regarding taking possession of the secured asset. In these circumstances, no further orders are now necessary.

6 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.

[M. M. SATHAYE, J.]

[B. P. COLABAWALLA, J].