



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1739 OF 2024

(IDFC FIRST BANK LIMITED, Thr. Its Asst. General Manager

Vs.

Arihant Transport Agency, Proprietor Shri Nishit S/o Pankaj Babaria &
Anr.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. M. Anilkumar, Advocate for the Petitioner.

CORAM: BHARAT P. DESHPANDE, J.

DATED : 12th MARCH, 2024

Heard Mr. Anilkumar, learned counsel for the
petitioner.

2. The order which is proposed in the present
petition, no notice to the respondents is necessary.

3. Mr. Anilkumar, learned counsel for the petitioner,
would submit that the respondent Nos. 1 and 2/borrowers
filed a suit against the petitioner for declaration,
permanent/perpetual injunction claiming relief that a notice
dated 09.12.2023 and sale of the immovable property under
the Securitisation And Reconstruction Of Financial Assets And
Enforcement of Security Interest Act, 2002 (for short the
“SARFAESI Act) to be declared as null and void. He submits,
that except the word fraud, there are no proper pleadings in
the plaint so as to exercise the jurisdiction of the Civil Court

and hence the petitioner filed an application under Order 7 Rule 11 of the Code of Civil Procedure on 28.12.2023. The petitioner has argued on the said application on 03.02.2024 and thereafter the respondents/plaintiffs partly argued the said application and even today the matter is fixed for further arguments. He submits, that the respondents/plaintiffs are not completing their arguments and even though the auction is over on 02.01.2024, the proposed purchasers put a condition on the deal of the auction subject to the decision of the suit. He submits, that the bank is unable to complete the auction proceedings since the suit is filed and it is delayed only on the ground of application under Order 7 Rule 11 of the Code of Civil Procedure.

4. Since the application is already filed and the petitioner has completed his argument, the learned Trial Court could be directed to dispose of such application as early as possible and within a period of one month from today. The learned Trial Court should keep in mind that the provisions of SARFAESI Act, clearly prohibits any proceedings to be filed unless the conditions are satisfied. Accordingly, the petition could be disposed of by directing the learned Trial Court to expeditiously dispose of the application filed by the petitioner under Order 7 Rule 11 of the Code of Civil Procedure and in any case within a period of one month from today.

5. The petition stands **disposed of** in view of the above terms. No costs.

6. The parties shall act on the authenticated copy of this order.

7. Pending application/s, if any, shall stand disposed of accordingly.

(BHARAT P. DESHPANDE, J.)

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