

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

**WRIT PETITION NO. 6931 OF 2024
WITH
INTERIM APPLICATION NO. 468 OF 2025**

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Khalid Salim Khan ...Petitioner/Applicant
Versus
Canara Bank Through Authorised Officer And Ors ...Respondents

Mr. K.R. Tiwari for Petitioner/Applicant.
Mr. O.A. Das, for Respondent Bank.

**CORAM: A.S. CHANDURKAR &
M.M. SATHAYE, JJ.**

DATE : 20TH JANUARY 2025

P.C. :

1. The Petitioner has approached this Court with a prayer against the Respondent No.1 – Canara Bank, not to auction residential premises being flat No.A/002, Ground Floor, New Royal Classic Co-op. Housing Society Ltd., Near Geeta Nagar, Phase-1, Mira Road (East), Distt.-Thane-4001107.

2. The Petitioner seeks to rely upon an agreement of sale dated 31.12.2009 that has been executed by the Respondent Nos.2 & 3 in favour of the Petitioner. On that basis, it is urged that the Petitioner is in possession and is paying maintenance charges to the Society. In these

facts, it is contended that it is not permissible for the Bank to auction the property in question and dispossess the Petitioner.

3. Affidavit-in-reply has been filed by the Bank wherein it has been stated that the mortgage with deposit of title deeds was executed by the borrowers Defendant Nos. 2 & 3 in June 2008. The original title documents are with the Bank along with registration of its charge on 21.02.2012 with the Central Registry of Securitisation Asset Reconstruction and Security Interest India (CERSAI). Pursuant to the order passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "SARFAESI Act, 2002") on 15.10.2024, notice has been issued to take possession of secured asset.

4. We find from the record that the Petitioner is claiming a right on the basis of an agreement for sale, when in fact, mortgage of the aforesaid property was created much prior to that. The order under Section 14 of the SARFAESI Act, 2002 has not yet been challenged. In the meanwhile, the secured asset has also been registered with the CERSAI. In these facts, therefore, the prayer made by the Petitioner not to proceed with the auction is in fact rendered infructuous, since such auction was held and a sale certificate has now been issued in favour of the highest bidder.

5. In view of aforesaid, there is no case made out to invoke writ jurisdiction. The writ petition is therefore dismissed.

6. In view of dismissal of the writ petition, pending interim application is also disposed of.

(M.M. SATHAYE, J.)

(A.S. CHANDURKAR, J.)