

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1220 OF 2025

Vinay Ramashankar Mishra and Anr. .. Petitioners
Vs.
The State of Maharashtra and Ors. .. Respondents

Mr. A.A. Siddiquie with Mr. Moin Chowdhari, Advocates, i/by A.A. Siddiquie & Associates, for the Petitioners.

Mrs. Reena A. Salunkhe, Assistant Government Pleader for Respondent Nos.1 and 4.

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

DATE : 24TH JANUARY 2025.

PC. :

1. The challenge raised in this writ petition is to the action proposed to be taken by the respondent no.5 – Punjab National Bank pursuant to notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*“Act of 2002”*). The learned counsel for the petitioners submits that initially notice under Section 13(2) of the Act of 2002 had been issued followed by a notice under Section 13(4) dated 19th November 2022. The same was challenged in this Court in Writ Petition (Lodging) No.36871 of 2022 (*Vinay Ramashankar Mishra Vs. The State of Maharashtra*). Thereafter, the Bank issued a fresh notice under Section 13(2) of the Act of 2002 on 26th December 2022. The petitioners replied to the same on 6th February 2023 and raised various objections. Without considering the same, as required

under Section 13(3-A) of the Act of 2002, a notice under Section 13(4) came to be issued thereafter. While moving an application under Section 14 of the Act of 2002, the Bank took the stand that the petitioners failed to raise any objection to the notice issued under Section 13(2) of the Act of 2002. The learned counsel for the petitioners has invited our attention to the contents of paragraph 9 of the said application dated 2nd June 2023 wherein it has been stated that the petitioners failed to raise any objection or make any representation against the said notice. It is thus submitted that despite the petitioners' objection vide communication dated 6th February 2023 that was duly acknowledged by the Bank, it suppressed material facts in the proceedings before the learned Magistrate. Hence, the petitioners have approached this Court.

2. Prima facie, it does appear that on 6th February 2023 the petitioners replied to the notice issued under Section 13(2) of the Act of 2002. Paragraph 9 of the application moved by the Bank states otherwise. This aspect cannot be gone into by the learned Magistrate in exercise of limited jurisdiction under Section 14 of the Act of 2002. Hence, issue notice to the respondents, returnable on 7th February 2025.

3. Subject to the petitioners depositing an amount of Rs.30,00,000/- within a period of two weeks from today with the Bank without prejudice to their rights and contentions, no steps shall be taken to enforce the

notice dated 31st December 2024 issued by the Additional Tahsildar seeking to takeover possession of the subject property. The deposit, if made, would be subject to further orders of the Court.

4. Stand over to 7th February 2025.
5. Parties to act on authenticated copy of this order.

[M.M. SATHAYE, J.]

[A.S. CHANDURKAR, J.]