IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8367 OF 2025

Mr. Ramkrishna Pandey and anr. … Petitioners
Versus
State of Maharashtra and ors. …. Respondents

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Mr. Mandar Soman, for the Petitioner.
Mr. A.K. Naik, AGP for the Respondent No.1-State.
Mr. S.N. Fadia, for Respondent No.2.

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CORAM : M.S.KARNIK AND N.R.BORKAR, JJ.

DATE : 26th JUNE, 2025

P.C. :

1. Heard Mr. Soman, learned counsel for the petitioners and learned counsel for the respondent no.2.

2. The petitioner who is a practicing Doctor claims to be the bonafide purchaser of secured asset of which symbolic possession has already been taken. Briefly stated, respondent no.3 -borrower has taken a loan in the year 2017 from the respondent no.2-Bank. As borrower has committed default, his account was declared as 'Non Performing Asset' on 04/02/2024. Demand notice dated

23/02/2024 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act', for short) was issued demanding total outstanding amount of Rs. 1.33 Crores.

3. It is the case of the petitioner that he is a bonafide purchaser. He purchased the flat of respondent no.3 on 03/06/2021. Learned counsel for the respondent no.2 submitted that the petitioner was well aware that the flat which is the secured asset was mortgaged with respondent no.2. It is submitted that the mortgage was registered on 31/03/2017. It is submitted that the petitioner has not exercised due diligence and infact the Society had informed the petitioner as regards the impediment in purchasing the said secured asset from the respondent no.3 in view of the existing mortgage. It is therefore submitted by respondent no.2 that apart from the petitioner having no right, he is a purchaser with notice. It is submitted that no indulgence be shown to the petitioner in the present facts. In any case, it is submitted that petitioner's remedy is under the SARFAESI Act.

4. We do find substance in the submissions made by learned

counsel for the respondent no.2-Bank. However, learned counsel for the petitioner on instructions of the petitioner who is present in the Court today made a statement that he undertakes to deposit a sum of Rs. 75 lakhs with the Bank to show his bonafides. It is submitted that a sum of Rs. 20 lakhs will be deposited on or before 28/06/2025. Rs. 40 lakhs will be deposited on or before 02/07/2025 and 15 lakhs will be deposited by 04/07/2025. The petitioner is present in person and undertakes to deposit a sum of Rs.75 lakhs in the above manner to show his bonafide. Statement is accepted.

5. The petitioner is at liberty to avail remedies provided under the SARFAESI Act by way of filing appropriate proceedings before DRT. In view of this undertaking, for the purpose of enabling the petitioner to avail of the remedies to approach DRT, we grant a limited protection to the petitioner by directing the respondent no.2-Bank not to dispossess the petitioner for a period of 4 weeks from today.

6. We make it clear that any application made to DRT for interim relief shall be decided on its own merits without being influenced

by any observations made by us in this order.

7. Learned counsel for the petitioner submits that every attempt will be made to negotiate the settlement with the Bank. These are matters between the petitioner and the Bank on which we express no opinion.

8. With these directions, keeping all contentions open, we dispose of the petition.

9. It is made clear that if the petitioner fails to deposit the amount in terms of the undertaking, respondent no. 2 -Bank is free to take possession of the secured asset.

(N.R.BORKAR, J.) **(M.S.KARNIK, J.)**