

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2819 of 2020**

=====

BANK OF BARODA
Versus
STATE OF GUJARAT

=====

Appearance:

MR. MAHITOSH U SINGH(7015) for the Petitioner(s) No. 1
for the Respondent(s) No. 2
MR KM ANTANI, AGP for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR.JUSTICE A.Y. KOGJE

Date : 31/01/2020

ORAL ORDER

1. In this petition under Article 226 of the Constitution of India, the prayer of the petitioner is that the respondent District Magistrate is not deciding the application dated 13.11.2019 filed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act' for short) though the statute specifies the particular time limit within which such application has to be decided.

2. As the order is for the purpose of compliance of statutory provision, formal notice is not found necessary.

3. Learned Advocate Mr.Mahitosh Singh for the

petitioner submitted that in identical set of facts, this Court has already passed an order giving such directions to the respondent-District Magistrate, a copy of which is produced on record.

4. Learned Advocate Mr.Singh for the petitioner also placed reliance on the order passed by this Court on 05.09.2019 in Special Civil Application No.13486 of 2019 in which this Court has given specific direction to the Collector to take a decision within a stipulated time. The said order reads as under:

"1. The petitioner has approached this Court with the following prayer:

"9(A) YOUR LORDSHIPS be pleased to issue appropriate writ, order or direction to the learned Collector and District Magistrate, Vadodara for expeditious disposal of the Securitisation Application filed by the petitioner under Section 14 of the SARFAESI Act on 13.12.2018 in accordance with law authorizing any subordinate officer to him to take possession of secured assets and forward the same to the petitioner, within a period of three weeks or within stipulated time as this Hon'ble Court deems fit and proper."

2. It is the case of the Bank that has filed an application under Section 14 of the SARFAESI Act before the respondent No.2 on 13.12.2018.

3. Mr.Dharmesh V. Shah, learned advocate for the petitioner relies on the provisions of Section 14 of the Act and submits that there is time bound schedule within which the respondent No.2 ought to have decide the application.

3.1 Mr.Dharmesh V. Shah, learned advocate for the petitioner further submits that though repeated requests have been made to respondent

No.2 to decide such application, no such decision has been taken.

4. Reliance is also placed on an order passed by this Court on 10.4.2019 in the case of same petition where this Court after reproducing the relevant provisions of the Section, directed the respondent No.2 - Collector to decide the application filed by the petitioner as expeditiously as possible and not later than 30 days from the date of receipt of writ of this order.

5. Mr.Dharmesh V. Shah, learned advocate for the petitioner invites identical order in the present case.

6. In view of the order dated 10.4.2019 passed in Special Civil Application No.5309 of 2019, similar directions are issued as under:

7. On reading the provisions of Section 14, it is clear that the Chief Metropolitan Magistrate or the District Magistrate before whom the application under Section 14 is filed, after satisfying the contents of the affidavit filed by the secured creditors has to pass appropriate orders for the purpose of taking possession of the secured asset within a period of 30 days from the date of application, and not later than 60 days. Hence, the respondent No.2 is hereby directed to adhere to the time limit prescribed in the said provisos and take appropriate decision on the application filed by the petitioner as expeditiously as possible and not later than 30 days from the date of receipt of this order.

8. Subject to the said direction, the petition is disposed of. Direct Service is permitted."

5. Mr.Singh further points out that even this Court on the earlier occasion has passed similar order in Special Civil Application No.5309 of 2019 where similar directions were issued.

6. Mr.Antani learned Assistant Government Pleader appears on an advance copy and he has no objection if the identical directions are issued to the Collector. Accordingly the following directions are issued.

7. The respondent District Collector and the District Magistrate before whom the application is filed under Section 14 shall, after satisfying the contents of the affidavit filed by the secured creditors has to pass appropriate orders for the purpose of taking possession of the secured asset within a period of 30 days from the date of application, and not later than 60 days.

8. Hence, the respondent is hereby directed to adhere to the time limit prescribed in the said proviso and take appropriate decision on the application dated 13.11.2019 filed by the petitioner in the matter between Bank of Baroda Vs. Dwijesh Subhashchandra Dave & Ors. as expeditiously as possible and not later than 30 days from the date of receipt of this order.

9. The petition is disposed of with the above direction.

Direct service is permitted.

(A.Y. KOGJE, J)

SHITOLE