

(2023) 05 GUJ CK 0110
In the Gujarat High Court

Case No : R/Special Civil Application No. 9294 Of 2023

Keshavji Devji And Sons

APPELLANT

Vs

ICICI Bank Limited

RESPONDENT

Date of Decision : 26-05-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2023) 05 GUJ CK 0110

Hon'ble Judges : S.V. Pinto, J

Bench : Single Bench

Advocate : AB Chaturvedi, Jainish P Shah

Judgement

S.V. Pinto, J

1. The present petition is filed under Article 226 of the Constitution of India seeking following main reliefs:

“(A) To command and direct the Respondent No.1 – Bank not to take physical possession of the immovable property viz., All that piece & parcel of immovable property being Non-agricultural Land situated at Revenue Survey No.213, ad-measuring 5867.91 sq. mtrs. having City Survey No.1010 ad-measuring 5562.37 sq. mtrs. Sheet No.23 Chalta No.192, at Taluka Mangrol, Mouje-Tarsadi, Dist: Surat until the Respondent No.3 – DRT- II hears and decides the interim reliefs in Securitisation Application No.349 of 2023; mark as Ann-G.

(B) To stay, pending the hearing and final disposal of the present Special Civil Application, the operation, implementation and execution of (i) the order dated 10.04.2023 of Additional Chief Judicial Magistrate, Mangrol, Surat passed in Criminal Miscellaneous Application No.63 of 2023 Ann-E and (ii) the notice dated 5.05.2023 issued by the court Commissioner (Ann-H)”.

2. Learned Advocate Mr.Jainish Shah appearing on caveat for respondent No.1 is permitted to file his reply. Registry to accept the same.

3. It appears from the record that the petitioners have filed SA No.349 of 2023 and the Court Commissioner had issued notice dated 05/05/2022 to take actual possession of the property on 28/05/2023. The petitioners have filed an application for urgent circulation and accordingly the DRT had fixed the matter on 18/05/2023 and thereafter it was listed on 25/05/2023. It also appears that Presiding Officer, DRT-II, Ahmedabad is on leave for the period between 23/05/2023 to 26/05/2023 and as per the notice afore-stated the possession is to be taken on 28/05/2023 at 8:00 a.m.

4. Having heard the learned Advocates appearing for the respective parties and considering the facts and circumstances of the case, it would be in the interest of justice that since the Presiding Officer, DRT-II, Ahmedabad is on leave, the respondent be directed to defer the process of taking over the possession for a period of one week. Accordingly, ordered.

5. With the aforesaid observations and directions, present petition stands disposed of. It is clarified that this Court has not expressed any opinion on the merits of the matter at this stage.