

(2023) 10 GUJ CK 0042

In the Gujarat High Court

Case No : R/Special Civil Application No.23266 Of 2019

Tejas Ranabhai Der

APPELLANT

Vs

IDFC First Bank Limited

RESPONDENT

Date of Decision : 09-10-2023

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 14

Citation : (2023) 10 GUJ CK 0042

Hon'ble Judges : Nirzar S. Desai, J

Bench : Single Bench

Advocate : Jayraj Chauhan, Shaivang D Mehta, Dhvani Tripathi, Shivani Rajpurohit

Final Decision : Disposed Of

Judgement

Nirzar S. Desai, J

1. By way of the present petition, the petitioner has prayed for the following reliefs :-

"(A) YOUR LORDSHIPS may be pleased to issue a writ of certiorari or writ of mandamus or any other appropriate writ, order or direction quashing and setting aside the notice dated 15.10.2019 issued under the signature of Mamlatdar (Executive Magistrate) Adajan, Surat City;

(B) Pending admission, hearing and final disposal of this petition, YOUR LORDSHIPS may be pleased to stay the further proceedings pursuant to notice dated 15.10.2019 issued under the signature of Mamlatdar (Executive Magistrate), Adajan, Surat city and further be pleased to restrain the authorities from taking over possession of immovable property as mentioned in above referred notice from the possession of petitioners."

2. Learned advocate Mr. Shivang Mehta appearing for the petitioner draws attention of this Court to a notice produced at page 89 and points out that the

aforesaid notice dated 15.10.2019 issued by the Mamlatdar & Executive Magistrate, Adajan, Surat city is a consequential notice based on an order dated 22.3.2019 passed by the District Magistrate, Surat upon an application preferred under Section 14 of the SARFAESI Act by the respondent No.1 Bank.

3. Learned advocate Ms. Shivani Rajpurohit, learned advocate appearing for respondent No.1 - Bank states that the aforesaid notice dated 15.10.2019 is based upon an order dated 22.3.2019 passed by the District Magistrate, Surat upon an application preferred under Section 14 of the SARFAESI Act by the respondent No.1 Bank and the petitioner has till date not challenged the order dated 22.3.2019. She further states that the respondent Bank had issued only three notices and out of the said notices, first notice was issued on 29.4.2017, second notice was issued on 3.8.2019 and third notice was issued on 28.2.2020. However, as the notice dated 3.8.2019 issued by the respondent No.1 Bank was withdrawn by the Bank vide order dated 28.2.2020 and after withdrawing the said notice, the respondent No.1 Bank had issued another notice dated 28.2.2020, the petitioner can challenge the same by initiating appropriate proceedings. She would further submit that at this stage, the petitioner would not be in a position to challenge even the subsequent notice for the reason that the possession of the property has already been taken over by the respondent No.1 Bank.

4. In view of the aforesaid statement made by learned advocate Ms. Shivani Rajpurohit and considering the fact that the petitioner has not challenged the order dated 22.3.2019 passed by the District Magistrate, Surat upon an application preferred under Section 14 of the SARFAESI Act by the respondent No.1 Bank as well as considering the fact that today as coming out from the statement of learned advocate Ms. Rajpurohit that even the possession of the property for which the impugned notice is given has already been taken over by respondent No.1 Bank, nothing survives in this petition and hence, the present petition accordingly stands disposed of. Notice is discharged. No order as to costs.