

ITEM NO.39

COURT NO.14

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No.12863/2020

[Arising out of impugned final judgment and order dated 21-09-2020 in WP No. 12428/2020 passed by the High Court of Judicature at Madras]

S. DHAYAS RAJ

Petitioner(s)

VERSUS

REPCO BANK &amp; ANR.

Respondent(s)

(IA No. 22243/2021 - APPLICATION FOR PERMISSION, IA No. 100605/2020 - EXEMPTION FROM FILING AFFIDAVIT & IA No. 114412/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 27-01-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) : Ms. Charu Ambwani, AOR

For Respondent(s) :

Mr. E Omprakash, Sr. Adv.

Ms. Madhusmita Bora, AOR

Mr. A. Illangovan, Adv.

Mr. Pawan Kishore Singh, Adv.

Mr. Dipankar Singh, Adv.

Mr. S.Sethuraman, Adv.

Ms. Aswathi M.K., AOR

UPON hearing the counsel the Court made the following

O R D E R

1. We heard Ms. Charu Ambwani, the learned counsel appearing for the petitioner, Mr. E. Omprakash, the learned Senior counsel appearing for Respondent No.1 - Bank and Mr. S. Sethuraman, the learned counsel appearing for the newly impleaded Respondent No.3 - auction purchaser.

2. The subject matter of challenge before the High Court was an order passed by the District Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI).

3. The Section 14 application was filed by the Respondent No.1 - Bank herein.

4. The impugned order reads thus:-

"The petitioner herein, who is the secured creditor has come forward to file this writ petition challenging the order passed under Section 14 of the SARFAESI Act by the District Magistrate, by which, the petition filed was rejected on the ground that the property has already been sold and, therefore, the application is not maintainable.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3. We have also considered the very same issue in W.P. No.28047 of 2019 etc batch dated 18.09.2020, *inter alia*, holding that the such an approach cannot be sustained in the eye of law.

4. In such view of the matter, the order impugned stands set aside and the District Magistrate/District Collector is directed to pass appropriate orders facilitating taking over the possession by the petitioner within a period of four weeks from the date of receipt of a copy of the order.

5. Accordingly, the writ petition stands allowed.No costs."

5. We are not inclined no reason to interfere with the impugned order passed by the High Court.

6. If the petitioner has any other grievance to redress as regards his right, title and interest in the mortgaged property, it shall be open for him to avail appropriate legal remedy before the appropriate forum in accordance with law.

7. The Special Leave Petition is disposed of in the afore-stated terms.

8. Pending applications, if any, shall also stand disposed of.

(VISHAL ANAND)  
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)  
COURT MASTER (NSH)