

**IN THE HIGH COURT OF UTTARAKHAND**

**AT NAINITAL**

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

**SPECIAL APPEAL NO. 122 OF 2023**

**10<sup>TH</sup> MAY, 2023**

**BETWEEN:**

Pushpinder Kaur & others .....Appellants.

And

Union Bank of India & others ....Respondents.

**With**

**SPECIAL APPEAL NO. 124 OF 2023**

**BETWEEN:**

Pawan Preet Singh & another .....Appellants.

And

Union Bank of India & others ....Respondents.

Counsel for the Appellants : Mr. D.S. Patni, learned Senior Counsel assisted by Mr. Dharmendra Barthwal, learned counsel.

Counsel for the Respondent No.1 : Ms. Prabha Naithani, learned counsel.

Counsel for the Respondent Nos.2 to 4 : Mr. J.C. Pande, learned Standing Counsel.

**The Court made the following:**

**COMMON JUDGMENT:**(per Hon'ble The Chief Justice Sri Vipin Sanghi)

The present special appeals are directed against the common order dated 25.04.2023, passed by the learned Single Judge in Writ Petition (M/S) Nos.1201 and 1212 of 2023. The learned Single Judge dismissed the said writ petitions as against the action taken by the District Magistrate, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of

Security Interest Act, 2002 (*for short 'the Act'*), the writ petitioners had statutory remedy under Section 17 of the Act before the Debts Recovery Tribunal. Reliance has been placed by the learned Single Judge on the judgment of the Supreme Court, in the case of ***Kotak Mahindra Bank Ltd. vs. Girnar Corrugators Private Ltd. & others, (2023) 3 SCC 210.***

2. The submission of Mr. Patni is that the DRT is not entertaining the appellants' application under Section 17 of the Act on the ground that the DRT-II, Delhi does not have the Presiding Officer and the case of the DRT-II, Delhi are being taken up by the Presiding Officer, DRT-III, Delhi, and only urgent matters relating to auction, sale and possession are being taken up. The reason for the same is stated to be that the Presiding Officer, DRT-III, Delhi is handling High Value Matters of Rs.100.00 Crores and above.

3. Mr. Patni submits that the SA No.169/2019, moved by the appellants, was adjourned by the Court Master, DRT-II, Delhi, on 24.03.2023.

4. A reading of the order dated 24.03.2023, passed by the Court Master, DRT-II, Delhi in the appellants' SA itself makes it clear that the urgent matters relating to auction, sale and possession are being taken up by the Presiding Officer, DRT-III, Delhi in the absence of the Presiding Officer in DRT-II, Delhi.

5. That being the position, we see no reason why the appellants' SA, under Section 17 of the Act, should not be entertained by the DRT-III, Delhi, since the appellants are seeking interim relief in relation to the auction, sale and possession of the property, in question.

6. We, therefore, direct that the DRT-III, Delhi shall take up the SA of the appellants, under Section 17 of the Act, in case they seek urgent interim relief relating to the auction, sale and possession of the secured assets.

7. The appeals stand disposed of in the aforesaid terms.

8. Pending application, if any, also stands disposed of.

**(VIPIN SANGHI, C.J.)**

**(RAKESH THAPLIYAL, J.)**

Dated: 10<sup>th</sup> May, 2023

NISHANT