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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.7986 OF 2014
WITH
CIVIL APPLICATION NO.224 OF 2015**

Narayan Dattatraya Kanzar ..Petitioner.
V/s.
Authorized Officer, Rupee. Coop Bank Ltd. and Ors. ..Respondents.

Mr.Shriniwas Sudhir Patwardhan for the petitioner.
Mr.Govind Salunkhe i/b. Mr.Pratap Patil for respondent Nos.1 and 2.
Mr.V.S.Gokhale, AGP for respondent No.3.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 31ST AUGUST, 2015

P.C. :-

1. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first and second respondents.

2. The challenge in this petition under Article 226 of the Constitution of India is to the order dated 1st July, 2014 passed by the third respondent under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SERFASI Act'). The impugned order dated 1st July, 2014 records that symbolic possession has already been taken over by the first and second respondents on 6th

December, 2013 of the property, subject matter of the impugned order. The order itself discloses that the petitioner has also adopted efficacious remedy under Section 17 of the said SERFASI Act. The contention of the petitioner in paragraph 5 of the petition is that though an application for temporary injunction is filed by the petitioner in the pending proceedings under Section 17 of the SERFASI Act, the Debt Recovery Tribunal (DRT) has not passed any order on the said application. The prayer in the said application (Exhibit-J to the petition) is for restraining the first and second respondents from taking physical possession of the property which is the subject matter of the impugned order. The learned counsel appearing for the petitioner on instructions states that even as on today, no order has been passed by the DRT on the said application. He states that the next date before the DRT is 28th September, 2015.

3. As the petitioner has taken recourse to the statutory remedy, it is not necessary to entertain this petition. Hence, we dispose of this petition by passing the following order :-

- (i) We accept the statement made by the learned counsel appearing for the petitioner that DRT, Pune has not passed any order on the application for temporary injunction made by the petitioner in S.A. No.31 of 2014;

- (ii) We direct the DRT, Pune to consider the prayer of the petitioner for grant of appropriate ad-interim relief on the pending application for injunction on 28th September, 2015 and to pass appropriate order on the said prayer;
- (iii) The petitioner shall produce an authenticated copy of this order before the DRT, Pune on 28th September, 2015;
- (iv) To enable the petitioner to move the DRT, Pune, ad-interim relief granted in this petition on 4th September, 2014 shall continue till 9th October, 2015;
- (v) We make it clear that the prayer for ad-interim relief or interim relief shall be considered by the DRT, Pune without being influenced by the grant of ad-interim relief by this Court as well as continuation of the ad-interim relief;
- (vi) All contentions on merits are kept open;
- (vii) Civil application No.224 of 2010 does not survive and the same is disposed of.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)

C E R T I F I C A T E

Certified to be true and correct copy of original signed
Judgment / Order.