

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5298 OF 2015

The Liquidator and Assistant Registrar Cooperative
Nagpur Mahila Nagri Sahakari Bank Ltd., Nagpur

-vs-

The Recovery Officer, Nagpur and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. R.K.Thakkar, counsel for the petitioner.

CORAM : SMT. VASANTI A. NAIK &
A. I. S. CHEEMA, JJ.

DATE : 15.09.2015.

By this petition, the petitioner seeks a direction to the respondents not to take the possession of the property in possession of the petitioner and to stay the warrant of possession. The petitioner seeks a further order restraining the respondents from taking coercive action in recovery proceedings No.51 of 2015.

The petitioner has filed an appeal before the Debts Recovery Appellate Tribunal, Mumbai against the order of the Debts Recovery Tribunal, dated 23/04/2015 dismissing the appeal filed by the petitioner against the order of the Recovery Officer. The appeal against the order of the Debts Recovery Tribunal has been entertained by the Debts Recovery Appellate Tribunal, Mumbai and by an order dated 03/09/2015, the matter is adjourned to 20/10/2015 for filing of reply, as one of the respondents was not served and the respondent No.1 had not filed reply.

Since the petitioner has availed the alternate remedy of filing the appeal before the Debts Recovery Appellate Tribunal, Mumbai in view of our observations in the order dated 21/08/2015 in Writ Petition No.2836 of 2015, we decline to entertain the writ petition seeking a direction to the respondents

not to take the possession of the property. If a possession warrant was issued on 04/09/2015, it was necessary for the petitioner to have filed an appropriate application before the Debts Recovery Appellate Tribunal, Mumbai for grant of stay. The prayer made in the writ petition are misconceived. Such prayers should have been made by the petitioner before the Appellate Tribunal.

In the circumstances of the case, the writ petition is dismissed with no order as to costs.

The points raised in the petition are, however, kept open.

JUDGE

JUDGE