

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 10989 OF 2016
WITH
CIVIL APPLICATION NO. 16759 OF 2016
IN
WRIT PETITION NO. 10989 OF 2016**

Pranav Ashok Tambe and Another ..PETITIONERS

VERSUS

The District Magistrate, Ahmednagar
and Others ..RESPONDENTS

....

Mr. A A. Yadkikar, Advocate for petitioners.
Mr. A.B. Girase, G.P. For Respondent Nos. 1 and 2.
Mr. M.D. Narwadkar, Advocate for Respondent No3.

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**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.
DATED : 17th FEBRUARY, 2017**

ORDER :

1. The petition is filed to challenge the order made of attaching and taking possession of the property of petitioner and also subsequent order which was made on 20th January, 2016 by which direction was given to the District Magistrate to take over possession of property under the SARFAESI Act, 2002. Heard both sides.

2. The learned Counsel submitted that the Debt Recovery Tribunal is not here at this station and so present proceeding is filed. This submission is not at all acceptable as charge of the Debt Recovery Tribunal is given to the Debt Recovery Tribunal working at Mumbai. Learned Counsel for petitioner submits that after order dated 20th January, 2016, the petitioner has deposited Rs.25/- lakh when amount due is more than Rs.1.09/- crores. It is clear that the petitioners are trying to avoid to go before the tribunal. They do not want to approach the tribunal and they want to get order from this Court so that they get some concession from the respondents. Learned Counsel submits that the petitioner are ready to make payment in installments and they will be giving proposal on 02nd March, 2017.

3. All these things cannot be considered by this Court. This Court has given some relief by order dated 27th October, 2016. So, it was necessary for the petitioners to approach the Debt Recovery Tribunal, but that is not done.

4. Civil Application No. 16759 of 2016 is filed by respondent for vacating the interim relief. In view of the aforesaid circumstances and as this Court is not expected to interfere in the matter and as there is right

to approach the appropriate forum by filing appropriate proceeding, this Court holds that no further continuation of interim relief is possible.

5. In the result, interim relief is vacated. Civil application is allowed. Petition stands disposed of as dismissed.

SSD (SANGITRAO S. PATIL, J.) (T.V. NALAWADE, J.)