

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.2774 OF 2017

Sudhir Shantaram Khanvilkar and others	..Petitioners
Versus	
The Catholic Syrian Bank Ltd.	..Respondent

Mr. Ishan Patkar a/w Ms. Roshni Naik for the Petitioners.
Mr. Pankaj Vijayan for the Respondent.

**CORAM : B. R. GAVAI &
SANDEEP K. SHINDE, JJ.
DATE : 9th OCTOBER, 2017**

PC.

1] The Petitioners have approached this Court being aggrieved by the order passed by the learned Debt Recovery Tribunal dated 4th August, 2017. To a particular query, the learned counsel fairly states that against an order of Debt Recovery Tribunal, Appeal is available before the learned Debt Recovery Appellate Tribunal. He however submits that for filing an Appeal, the Petitioner would be required to deposit a substantial amount, as such the Petitioner has approached to this Court directly. The learned counsel relying on the judgment of the Apex Court in the case of Har Devi Asnani Vs. State of Rajasthan and others¹. No doubt, non-exercise of the jurisdiction on the ground of availability of alternative remedy is a rule self restraint and does not prohibit this Court

1 (2011) 14 SCC 160.

entertaining the Petition is directly if facts of the case so warrant. The Apex Court in number of cases has held so.

2] However, non-exercise of the jurisdiction on the ground of availability of alternate remedy is a rule and the exception of entertaining a Petition has to be justified on the compelling circumstances being made out.

3] In the judgment which is cited by the learned counsel for the Petitioners, Their Lordships of the Apex Court have given reasons in paragraphs 26 and 28 as to why Their Lordships found that Learned Single Judge of this Court ought to have entertained the Petition in spite of availability of an alternate remedy.

4] We do not find any reason for exercising extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India. The Petition is dismissed, by relegating the Petitioner to adopt alternate remedy available in law.

[SANDEEP K. SHINDE, J]

[B. R. GAVAI, J]