

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO.390 OF 2018.***

Ambica Constructions, Rep.

By its proprietor, Srinivas

Thorwat and 3 ors.

..... Petitioners.

Versus

The Chief Manager and Authorised

Officer, Andhra Bank and 3 ors.

..... Respondents.

Mr. C. Fonseca, Advocate for the Petitioners.

Mr. V. Ajay Kumar, Advocate for the Respondents.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 24 April 2018.

P.C. :

On 27 March 2018 we had passed the following order:-

“The learned Counsel for the Respondent-Bank states that he has been served with the copy of the Petition. At his request, S.O. to 9 April 2018, to take instructions and file reply, if any.

2. *The learned Counsel for the Petitioners states that in the meantime, the Bank be restrained from proceeding further in pursuance of the Demand Notice. He states that since the action of the Respondent-Bank is in breach of the principles of natural justice, this Court should take cognizance of the Respondent-Bank and protect the Petitioners by passing a suitable order. We are unable to agree with this submission. It is informed to us that the Respondent- Bank has already moved an application before the Magistrate where the Petitioners have appeared. Thereafter, the Petitioners also have a remedy of an appeal under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, to the Debt Recovery Tribunal.*
3. *In the circumstances, the request for grant of an ad interim relief is refused.”*

2. The learned Counsel for the Petitioners seeks further time. The learned Counsel for the Respondents opposes and states that all contentions raised by the Petitioner can be raised by the Petitioner before the Debt Recovery Tribunal as action under SARFAESI Act has already been initiated. We agree with this submission that the Petitioners have efficacious remedy available. Ad-interim relief has already been refused four weeks ago. In these circumstances, there will

be no purpose in keeping this Writ Petition pending. Writ Petition is accordingly disposed of with a liberty to the Petitioners to adopt the appropriate remedy. All contentions on merits are kept open.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.