

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10811/2018

Sangeeta Vishwas Dhakade & Anr.

... Petitioners

V/s.

Bank of Maharashtra

... Respondent

Mr. Yogesh ande for the Petitioners

Mr. D. Y. Wani with Devanshish Wani I/b. D. Y. Wani & Co. for
Respondent No.1.

Mr. A. A. Alaspurkar, AGP for Respondent No.2.

**CORAM: K.K. TATED &
S. K. SHINDE, JJ.**

DATED : SEPTEMBER 27, 2018

P.C. :

1 Heard. By this petition under Article 226 of the Constitution of India, the Petitioner challenges the order dated 10.07.2018 passed by the Debts Recovery Tribunal, Pune in Interlocutory Application No.716/2018 in Securitization Appeal No.59/2018.

2 An alternate efficacious remedy is available to the Petitioner i.e. to prefer an appeal before the Debts Recovery Appellate Tribunal.

3 The Apex Court in the matter of ***Punjab National Bank Vs. O.C. Krishnan & Ors. (2001) 6 SCC 569*** held that if an alternate remedy is available, then the High Court should not entertain the petition under Article 227 of the Constitution of India and should direct the party to take recourse to the appeal mechanism provided by the Act. Similarly,

the Apex Court, in the matter of ***General Manager, Sri Siddeshwara Cooperative Bank Ltd. & Ors. Vs. Ikbali and Ors. (2013) 10 SCC 83*** held that if an alternate efficacious remedy is available under the SARFAESI Act, the High Court should not exercise the powers under Article 226 of the Constitution of India in respect of the matters arising from SARFAESI Act. The Apex Court also in the matter of ***Authorized Officer, State Bank of Travancore and Ors. Vs. Mathew K.C. (2018) 3 SCC 85*** held that the SARFAESI Act is a complete Code by itself providing for expeditious recovery of the dues out of loans granted by the Financial Institutions, the remedy of appeal by the aggrieved under section 17 before the DRT is provided. It is also held by the Apex Court that the normal Rule is that a Writ Petition under Article 226 of the Constitution ought not to be entertained if alternate statutory remedies are available.

4 At the request of the learned counsel for the Petitioners, Respondent is restrained from taking any action against the Petitioners in respect of the suit property till 12.10.2018.

5 Writ Petition stands disposed of accordingly. No order as to costs.

(S. K. SHINDE, J.)

(K. K. TATED, J.)