

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

WRIT PETITION NO.3309 OF 2019

**PAWAN VASANT SONAWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.Abhijit G. Choudhari, Advocate for the petitioner
Mrs.R.P.Gaur, AGP for the respondent/State

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 06.03.2019

P.C. :-

. Heard learned counsel for the petitioner.

2. On receiving the notice dated 16.02.2019 thereby the Tahasildar and Executive Magistrate, Jalgaon informed the petitioner that being competent authority seeking possession of the property on 20.02.2019 at 11.00 am. Being aggrieved by the said notice the petitioner approached this Court by filing the present writ petition on 25.02.2019. Learned counsel for the petitioner submitted that during pendency of the petition one more notice is issued to the petitioner on 20.02.2019. As per this fresh notice the Tahasilda informed that the possession of the property would be taken today i.e. 06.03.2019 at 11.00 am. Perusal of both the notices show

that the authority namely Tahasildar is acting as competent authority taking recourse to the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 under Section 14 a statement is made in the petition that though the remedy of approaching the Debts Recovery Tribunal, Aurangabad is available to the petitioner, as the post of Presiding Officer, Debts Recovery Tribunal, Aurangabad is vacant for considerable long time and the charge is given to Presiding Officer of the tribunal at Pune, as such the petitioner is approaching this Court. This very fact was brought to our notice in some other petitions and subsequently it was brought to our notice that though initially for some period the Debts Recovery Tribunal at Pune was unable to take up the matters filed at Aurangabad for certain procedural and technical difficulties, now, Debts Recovery Tribunal, Pune is accepting those proceedings and also taking up the proceedings for consideration and passing appropriate orders. As such now the petitioner is not prevented by a reason of non-availability of the efficacious and appropriate alternate remedy available to him under the provision of the Act itself. Learned counsel submitted that the petitioner will approach the tribunal but as the possession notice is received by the petitioner yesterday

and the possession is scheduled today i.e. 06.03.2019 at 11.00 am the interest of the petitioner be protected for some time so as to facilitate the petitioner to avail the alternate remedy and request the tribunal for passing interim orders. There is some merit in the submission of the learned counsel for the petitioner.

3. Accordingly, we dispose of the petition with liberty to the petitioner to approach the Debts Recovery Tribunal, Pune so as to file appropriate proceedings. We further direct respondent No.3 Tahasildar/Executive Magistrate, Jalgaon not to take any coercive action in furtherance to notice dated 20.02.2019 for a period of ten days i.e. upto 18.03.2019 only. We further make it clear that the protection is granted to the petitioner only for a period of ten days i.e. upto 18.03.2019. On expiry of stipulation period the protection would automatically stands vacated without there being any request to be entertained by this Court in furtherance of extension of period.

4. Learned AGP to communicate this order forthwith to respondent No.3.

5. Parties to act upon authenticated copy of this Court.

6. With the above directions, the writ petition is disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]