

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

WRIT PETITION NO.3003 OF 2019

M/s Anand Kotex
Through its proprietor,
Sirajoddin Bapuji Pate, Age: 58 years,
Gat No.283, Paithan Road,
A/p Shevgaon, Tq. Shevgaon,
Dist. Ahmednagar, 414502.

... Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary of the
Revenue Department Mantralaya,
Mumbai.
2. The Collector,
Collector Office, Ahmednagar
3. Axis Bank Limited,
Shrivastava, 65, Sarang Housing
Society, Near Gajanan Mandir,
Garkheda, Aurangabad - 431 005.
4. The Authorised Officer,
Axis Bank Limited,
Shrivastava, 65, Sarang Housing
Society, Near Gajanan Mandir,
Garkheda, Aurangabad - 431 005.

... Respondents

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Mr. Rajendra B. Dhakane, Advocate for Petitioner;
Mr. S.S. Dande, A.G.P. for Respondent Nos.1 & 2.

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

DATED : 04th MARCH, 2019

PER COURT:-

1. Heard the learned counsel for the petitioner.
2. At the outset, the counsel for the petitioner orally pray for amendment to the petition by correcting the name of the petitioner. He submits that by typographical error, the name is referred to as 'Cotex' instead of 'Kotex'. Oral prayer is allowed. The amendment be carried out forthwith.
3. The Petitioner challenges the possessions notice dated 19.01.2019 issued by the authorised officer of Axis Bank Limited i.e. Respondent No.4. It may not be necessary for us to refer the facts in detail. Suffice to say that his notice is issued by Respondent No.4 taking recourse to the provisions of the Securitisation Act of 2002 and the Rules thereof. A statement is made in the petition that though the petitioner is having an alternate remedy of approaching the Debts Recovery Tribunal, Aurangabad for peculiar situation normally non availability of the Presiding Officer at Debts Recovery Tribunal, the petitioner is approaching this Court. In the very ground i.e. reflected in under the caption "General Declaration, clause 7" and further statement is made that the charge is kept with the learned Presiding Officer, Pune. It was brought to our notice that the in-charge Tribunal at Pune is entertaining the proceedings arising out of the proceedings initiate at Aurangabad, as such, the fact remains that the petitioner not left remedy-less.
4. The learned counsel for the petitioner than submitted that the petitioner would approach the Debts Recovery Tribunal at Pune by filing necessary proceedings along with an application for interim orders. The learned counsel then submitted that this exercise would be undertaken by the petitioner, as expeditiously as possible, and not later than one week from today. The counsel

then pray for the interim relief for a limited period so as to facilitated the petitioner to avail the efficacious alternate remedy and protecting his interest till he approaches the competent forum. This being a limited prayer of the petitioner.

5. The petition is disposed of at the admission stage permitting the petitioner to approach the Debts Recovery Tribunal at Pune by filing necessary proceedings along with applications within (1) one week.

6. The Respondent No.4 is directed not to take any coercive steps in furtherance of notice dated 19.01.2019, it it is already not taken for a period of (2) two weeks from today.

7. We further make it clear that this interim protection granted to the petitioner is only for the limited period for (2) two weeks. On expiry of the period, the interim protection would also come to an end.

8. With these directions, the petition is disposed of.

(S.M. GAVHANE)
JUDGE

(PRASANNA B. VARALE)
JUDGE