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

WRIT PETITION NO.3506 OF 2019

1. M/s Amar Technocraft,
Through its Proprietor
Mr Amarjeetsingh Bakshishingh Shahi,
Age: 46 years, Occu: Business,
R/o: Plot No.L-32, MIDC,
Tq. & Dist. Ahmednagar
 2. Mrs. Balwinderkaur Amarjeetsingh Shahi,
Age: 42 years, Occu: Business,
R/o: Flat No.105, Parijat Apartment,
Meghraj Colony, Shahkar Nagar,
Savedi, Ahmednagar
- ..PETITIONERS

VERSUS

1. The Union of India,
Through its Secretary Finance,
New Delhi
 2. Kotak Mahindra Bank Ltd.,
Having its registered office at
27 BKC C-27, G-Block, Bandra
Kurla Complex, Bandra East,
Mumbai 400051
And having its Branch Office at
Ground Floor, 16/1, Hotel Oberai,
Plot No.44/6, 43/9/10, Nagar Manmad
Road, Savedi, Ahmednagar 414001,
Through its Authorized Officer
- ..RESPONDENTS

Mr A. G. Talhar, Advocate for petitioners;
Mr S. S. Deve, Advocate for respondent No.1;
Mr A. D. Kasliwal, Advocate for respondent No.2

**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 12th March, 2019

ORAL ORDER:

Heard Mr Talhar, learned Counsel appearing on behalf of the petitioners.

2. It may not be necessary for us to refer to the facts in detail and also to refer bulky material placed on record, suffice it to say that against the petitioners proceedings is initiated by respondent no.2 - bank taking recourse to the provisions of the Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The property of the petitioners, namely, a hotel was subjected to an auction scheduled on 15th March, 2019. Being aggrieved by the action of respondent no.2 bank, the petitioners immediately approached the Debts Recovery Tribunal, Aurangabad. It was brought to our notice in some petitions that as the Presiding Officer is not available in the Debts Recovery Tribunal, Aurangabad, his additional charge is kept with the Debts Recovery Tribunal at Pune. A statement is made in the petition that the petitioner requested Debts Recovery Tribunal, Pune for hearing of the proceedings initiated at their instance. Such request was made on 11th March, 2019 by way of a praecipe. The circulation was granted on 18th March, 2019 by the learned Presiding Officer of the Tribunal. As the auction is scheduled on 15th March, 2019, there was a pressing urgency for the petitioners. As such, petitioners again rushed to the Tribunal and made a request to the Presiding Officer of the Tribunal to advance the date of hearing. This request was made to the Tribunal on 8th March, 2019, but

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in-charge Presiding Officer of the Tribunal at Pune, perhaps in view of heavy workload, was pleased to post the proceedings for consideration / hearing on 22nd March, 2019. This peculiar circumstance left no choice for the petitioners but to approach this Court.

3. Considering the urgency in the matter, we issue notice making the same returnable forthwith.

4. Learned Counsel Mr Deve waives service of notice on behalf of respondent No.1 and learned Counsel Mr Kasliwal on behalf of respondent No.2.

5. Mr Kasliwal, learned Counsel appearing on behalf of respondent No.2 submitted that respondent No.2 is ready to make submissions before the Tribunal on the scheduled date that is on 22nd March, 2019 and let the proceedings initiated at the instance of the petitioners be decided on its own merits.

6. In view of the fact that the request of the petitioners for early hearing of the proceedings and for advancing the date of hearing was turned down, a query was put to the learned Counsel appearing on behalf of respondent No.2 as to whether respondent No.2 is ready to stay their hands off from the auction proceedings scheduled on 15th March, 2019 till the scheduled date of hearing i.e. 22nd March, 2019. The Counsel for respondent No.2 submitted before us that appropriate orders be passed by this Court.

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7. Having regard to the above referred facts, leaving open the assessment of merits for the competent and appropriate forum to which the petitioners have already approached, namely, the Debts Recovery Tribunal at Pune and permitting the parties to advance their submissions on the scheduled date, we direct respondent No.2 not to proceed further with the auction process scheduled on 15th March, 2019 till 22nd March, 2019 or till the Debts Recovery Tribunal, Pune, passes the order on the proceedings initiated at the instance of the petitioners.

With aforesaid directions, petition stands disposed of.

(NITIN W. SAMBRE, J.)

(PRASANNA B. VARALE, J.)

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