

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 911 OF 2018

SATISH SAIL, REP. BY CONST. POA
BHUSHAN HONAVARKAR AND ANR., ... Petitioners

Versus

AUTHORIZED OFFICER, SYNDICATE
BANK, VASCO AND 5 ORS., ... Respondents

Shri B. P. Sardesai, Advocate for the Petitioners.
Shri P. Kholkar, Advocate holding for Shri Sandesh Gajanand
Arabekar, Advocate for the Respondent no.1.

Coram:- C. V. BHADANG, J.

Date:- 22nd February 2019

P.C.

By this Petition, the petitioners, who are the original plaintiffs, are challenging the order dated 30.08.2018 passed by the learned Trial Court, refusing to stay the auction of the suit shops being conducted by the first respondent, under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act for short). The learned Trial Court has refused to stay the auction on the ground that the application for rejection of the plaint filed by the first respondent is pending and even if the auction is held, the petitioners/plaintiffs can challenge the same.

2. Prima facie, at this stage, it appears that the only ground of challenge in the Civil Suit is that on account of some dispute interse between the legal representatives of the original owner and the builder, the sale deed in respect of the suit shops could not be executed in favour of the petitioners. Thus, according to the petitioners, there is no security interest created in favour of the bank.

3. Having heard the learned Counsel for the parties, I do not find that any case for interference is made out in the impugned order. In any event, as observed by the learned Trial Court, even if the auction is held, the petitioners have their own remedy under the provisions of the SARFAESI Act before the Debt Recovery Tribunal.

4. In that view of the matter, I decline to entertain the petition, which is dismissed with no orders as to costs.

C. V. BHADANG, J.

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