

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.25247 OF 2019

Mitesh Madhav Nadkarni & Anr.

...

....Petitioners

V/S

J.M. Financial Asset Reconstruction Co.

Pvt. Ltd. & Anr.

....Respondents

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Mr. Rajesh Nagory a/w Ms. Priyanka Fadia i/b Mr. Shashank A. Fadia for the Petitioners.

Ms. Nishit Dhruva a/w Mr. Prakash Shinde and Ms. Niyati Merchant i/b M/s. MDP & Partners for Respondent No.1/Company.

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**CORAM : A.A. SAYED &  
PRAKASH D. NAIK, JJ.**

**DATE : 16 SEPTEMBER 2019.**

**ORDER:**

1 The Petitioners have filed the Petition on behalf of the 91 members of the Lotus Business Park Premises Co-operative Society Limited. The names of those members are listed at Exhibit 'A' to the Petition. They claim to be bonafide purchasers of the units/galas/shops/offices standing on the subject property. The Petitioners have essentially challenged the order dated 13 December 2017 of the Chief Metropolitan Magistrate under section 14 of the SARFAESI Act.

2 Inasmuch as the Petitioners have an alternate remedy before the DRT, we are not inclined to entertain the Petition. We are informed that the

notice dated 17 August 2019 has been issued by Respondent No.1 for taking physical possession of the subject property which is scheduled for tomorrow i.e. on 17 September 2019. The Petitioners, however, have approached this Court instead of DRT at the eleventh hour. In the circumstances, subject to the Petitioners handing over a Demand Draft in a sum of Rs.50,000/- as costs to the Respondent No.1, the Respondent No.1 shall defer taking physical possession of the subject properties for a period of three weeks from today.

3 With the aforesaid directions, the Petition is dismissed with liberty to the Petitioners to approach DRT. All the contentions are kept open.

**(PRAKASH D. NAIK, J.)**

**(A.A. SAYED, J.)**

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