

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (STAMP) NO.617 OF 2020

Pramod Mishrilal Dhadiwal
& Anr.

..

Petitioners

Vs

The Collector, Pune & Ors.

..

Respondents

...

Mr. R.D. Soni i/b Ram & Co. for the Petitioners.

Mr. Y.S. Khochare, A.G.P. for the Respondents.

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**CORAM: PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : 20th JANUARY, 2020.

P.C:-

1. The Petitioners are aggrieved by the Order dated 04th November 2019 passed by the District Collector, Pune and in terms thereof a Notice dated 09th December, 2019 issued by the Tahsildar. The District Collector has appointed the Tahsildar as the Officer under Section 14 of the SARFAESI Act to take possession of the secured assets.

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2. The Petitioners have not approached the Debt Recovery Tribunal on the plea that no officer being appointed to the Debt Recovery Tribunal at Pune, jurisdiction is vested in the Debt Recovery Tribunal at Hyderabad and the distance prevents the Petitioners from accessing justice.

3. If the Debt Recovery Tribunal is not functioning at Pune and we were to entertain the Writ Petition for said reason, we would be bound by law to exercise our discretion had a Petition being filed before the Debt Recovery Tribunal, Pune exercising their right under Section 17 of the SARFAESI Act.

4. The fulcrum of the Petition is that there was a dispute at the rate on which the Latur Urban Co-operative Bank Ltd. could charge interest and the Bank being a Co-operative Bank, in proceedings under the Maharashtra Co-operative Societies Act, the demand in favour of the Bank stands crystallized.

5. The Petitioners state that their liability can be only Rs.3,32,19,030/-. Thus this amount which the Petitioners admit is payable has to be paid by them and the rest could await adjudication before the Debt Recovery Tribunal as and when an officer is appointed.

6. Thus we dispose of the Petition directing that upon the

Petitioners paying to the Latur Urban Co-operative Bank Limited a sum of Rs.3,32,19,030/- within thirty days from today, the impugned notice dated 09th December 2019 shall not be given effect to.

7. We make it clear if within thirty days the aforesaid amount is not paid, the Tahsildar would be free to enforce the notice dated 04th November, 2019.

(SMT. BHARATI DANGRE, J.)

(CHIEF JUSTICE)