IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7121 OF 2019

The Sahebrao Deshmukh Co-op. Bank
Ltd. through Authorised Officer. .. Petitioner

Vs

Ganesh Medicament Pvt.
Ltd. through its Director & Ors. .. Respondents

…

Mr. Vishal C. Ghosalkar for the Petitioner.

Mr. Rajesh Nagory with Mr. Srushti More i/b M/s. Apese Law Partners for the Respondents.

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

DATED : 14th FEBRUARY, 2020.

P.C:-

1. The Petitioner is aggrieved by the order dated 27th February, 2019 passed by the Debts Recovery Appellate Tribunal disposing of Miscellaneous Application No.142 of 2019 filed in Miscellaneous Appeal No.12 of 2019. The Respondents are the Appellants.

2. The Appellants were aggrieved by a measure taken by the

Petitioner under Section 14 of the SARFAESI Act. The Respondents had placed an Application under Section 17 of the SARFAESI Act which was registered as Securitization Application No.297 of 2017. The Debts Recovery Tribunal – II, Bombay passed an order on 31st January, 2019 dismissing the Securitization Application.

3. The impugned order requires 50% of the outstanding amount i.e. ₹2.45 crores to be deposited in two tranches.

4. The Debts Recovery Appellate Tribunal has exercised the power under the proviso to Section 18 of the SARFAESI Act.

5. The grievance in the Writ Petition is that the impugned order directs 50% of the principal sum to be deposited and overlooks the interest, which is contrary to the law declared by this court; requiring 50% of the principal sum plus interest thereon to be deposited.

6. There may be merits in the stand taken by the Petitioner but the problem is that the Petitioner is a Co-operative Bank registered under the Maharashtra Co-operative Societies Act, 1960 and whether such banks can take resort to proceedings under SARFAESI Act is the subject matter of consideration before the Supreme Court wherein we have been noting interim

orders passed by the Supreme Court requiring between 25% to 50% amount being deposited by the borrowers.

7. Since the very entitlement of the Petitioner to take action under the SARFAESI Act is under a cloud, we decline to interfere with the impugned order passed by the Debts Recovery Appellate Tribunal.

8. The Writ petition is disposed of.

(SMT. BHARATI DANGRE, J.) **(CHIEF JUSTICE)**

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