

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 361 OF 2021

Deepak Narendra Bagal and Ors.

... Petitioners

V/s.

The Reserve Bank of India and Ors.

... Respondents

Mr. T.D. Deshmukh for the Petitioners

Ms. Kirti Ojha I/b. Udwadia & Co. for the Respondent No.1

Mr. G.H. Keluskar for the Respondent No.3

Ms. M.H. Mhatre, APP for the Respondent - State

***CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.***

DATE : 21 OCTOBER 2021

P.C. :-

This Petition has been filed by the two individuals challenging the communication of the Reserve Bank of India on 14 October 2020 informing them that the Reserved Bank of India will not initiate action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. The Petitioners are seeking a direction to the Reserve Bank of India to lodge a written complaint against the Respondent No.3 – Bank.

2. Since a writ of mandamus is being sought, first the Petitioners must demonstrate their right for such a relief, secondly corresponding duty of the Reserve Bank of India to lodge a complaint and thirdly, the duty of the Reserve Bank of India to give reasons if a communication calling upon it to file a complaint is not being entertained.

3. The Petitioners are not being able to demonstrate any right of the Petitioners' under Section 30 of the SARFAESI Act neither the duty on the Reserve Bank of India that it must lodge a complaint. In the communication dated 14 October 2020, the Reserve Bank has stated that it is a general policy of the Reserve Bank and since the Bank in question has already initiated action under SARFAESI Act, the Reserve Bank would not intervene and the appropriate action can be taken by the appropriate forum. Nothing is shown to us as to how this policy decision indicated the communication is either arbitrary or has been selectively applied. In the absence of such data or contentions placed before us, we cannot direct the Reserve Bank of India that it must proceed to file a complaint in this matter even assuming such a course of action can be dictated.

4. We are informed by the learned Counsel for the Petitioners that the Petitioners have already approached the Debt Recovery Tribunal where the civil rights of the Petitioners have been

protected. Since the Petitioners are already before the Debt Recovery Tribunal the contentions of the Petitioners on the merits of their case pending before the Debt Recovery Tribunal will be considered by the Debt Recovery Tribunal on its own merits. As far as the mandamus is concerned, we decline to issue the same.

5. The Writ Petition is accordingly disposed of.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
PRAKASH PAWAR
Date: 2021.10.26
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