

PMB

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

WRIT PETITION NO.6498 OF 2021

Gurjit Singh Sason and anr.

.. Petitioners

Vs.

Shriram Housing Finance Ltd. and ors.

.. Respondents

Mr. Shashank Thatte a/w Mr. Divakar Rai, Mr. Ranjit A. Agashe, Vinsha Acharya i/b. Mr. Krishnan Iyer for the petitioners.

Mr. Chetan C. Agrawal for respondent no.1-SHFL.

Mr. Mohamedali M. Chunawala i/b. Mr. A.A. Ansari for respondent no.2.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: OCTOBER 7, 2021

P.C. :

1. The petitioners had approached the Debts Recovery Appellate Tribunal, at Mumbai (hereafter "the DRAT" for short) by filing an appeal under section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter "the SARFAESI Act" for short). The appeal, numbered as

Miscellaneous Appeal No. 17 of 2021, has since been disposed of by the Chairperson of the DRAT by an order dated June 3, 2021.

2. In terms of the provisions of section 18(1) of the SARFAESI Act, the petitioners had pre-deposited Rs.70,00,000/-. With the disposal of the appeal by the order dated June 3, 2021, the petitioners are entitled to seek refund of the pre-deposited amount of Rs.70,00,000/- in terms of the decision of the Supreme Court in **Axis Bank Vs. SBS Organics Pvt. Ltd. and Anr.**, reported in (2016) 12 SCC 18. However, the petitioners have been forced to invoke the writ jurisdiction of this Court in view of an order dated September 23, 2021 passed by the Presiding Officer, DRT-III, Mumbai on Securitization Application No.106 of 2019. It is recorded in the said order that the office of the Chairperson, DRAT is presently vacant and liberty has been granted to the petitioners to approach this Court for an appropriate order to release the pre-deposited amount of Rs.70,00,000/-.

3. It is not disputed by the parties that the office of the Chairperson of the DRAT being vacant, no other Chairperson of any other Appellate Tribunal has been given charge of the DRAT. In such circumstances, we direct the respondent no.3, the Registrar of the DRAT, to refund the pre-deposited amount of Rs.70,00,000/- along with accrued interest, if any, within 48 hours of an application being made in this behalf by the petitioners, upon complying with all legal formalities.

4. The writ petition stands disposed of. No costs.

(M.S. KARNIK, J.)

(CHIEF JUSTICE)

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signed by
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MAKARAND
BHOGALE
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