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

WRIT PETITION NO. 7352 OF 2021

Prakash Maruti Tidke and anr. Petitioners
Vs.
State of Maharashtra and ors. Respondents

Mr. Charles De'Souza i/b Mr. V.N.Ajikumar, for the
Petitioners.
Smt. R.A.Salunkhe, AGP for the Respondent No. 1 - State.
Mr. O.A. Das, for Respondent No.2.
Mr. Akhilesh Dubey a/w Mr. V.R. Mishra i/b M/s. Law
Counsellors, for Respondent No.4.

**CORAM : DIPANKAR DATTA, CJ &
M.S. KARNIK, J.
DATE: NOVEMBER 23, 2021**

P.C. :

1. An order dated September 30, 2021 passed by the
Presiding Officer, Debt Recovery Tribunal – III, Mumbai
Bench, Mumbai (hereafter “the Tribunal”, for short) in S.A.
No. 169 of 2018, being an application under section 17 of
the Securitization and Reconstruction of Financial Assets
and Enforcement of Security Interest Act, 2002, is under
challenge in this writ petition dated October 13, 2021 at the
instance of the applicants in such application.

2. The grievance of the petitioners, as espoused by Mr. De'Souza, learned advocate, is that the Tribunal by the said order dated September 30, 2021 has decided certain points finally although S.A. No. 169 of 2018 has been posted for final orders on November 25, 2021, thereby effectively foreclosing the petitioner's right to argue such points at the final stage before the Tribunal.

3. We find from an order dated November 3, 2021 of the Vacation Court that an interim order of *status quo* was passed confined to a structure that was alleged to have been demolished; however, interim relief, as prayed for in the writ petition to maintain *status quo* in respect of the proceedings arising out of S.A. No. 169 of 2018 was not granted. On the contrary, the Vacation Court encouraged the Tribunal to pass orders on S.A. No. 169 of 2018 without being influenced by the directions given in the order.

4. We also find from the order dated September 30, 2021 that proceedings of S.A. No. 169 of 2018 were adjourned till October 6, 2021 and then again till October 14, 2021 to enable the parties to advance their arguments. Upon

conclusion of arguments, November 25, 2021 has been fixed by the Tribunal for passing final orders on S.A. No. 169 of 2018.

5. Since the Tribunal has heard the parties finally and bearing in mind the order of the Vacation Court encouraging the Tribunal to proceed to pass the final order on S.A. No. 169 of 2018 without stalling such proceedings, we are not inclined to examine the merits of the claims raised by Mr. De'Souza at this stage. However, we make it clear that if at all the Tribunal passes an order adverse to the interest of the petitioner while disposing of S.A. No. 169 of 2018, all such points sought to be raised now would be available for being raised by him at an appropriate stage either before the Debts Recovery Appellate Tribunal (hereafter "the DRAT", for short) or if the DRAT is not functional, before this Court.

6. We once again encourage the Tribunal to dispose of S.A. No. 169 of 2018 finally by the next date, whereafter the petitioner shall be free to explore his remedy in accordance with law.

7. Subject to the above observations, this writ petition stands disposed of. No costs. The interim order of *status quo* with regard to the subject structure shall continue till disposal of S.A. No. 169 of 2018.

(M.S. KARNIK, J.)

(CHIEF JUSTICE)