

Diksha Rane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 17851 OF 2021
WITH
INTERIM APPLICATION NO. 2396 OF 2021
IN
WRIT PETITION (L) NO. 17851 OF 2021**

M/s. Ketan Shah Industries
Limited & anr.

..Petitioners

vs.

The Authorised Officer, State Bank
of India & anr.

..Respondents

Mr. Rajesh Nagory a/w. Mr. Vinod Kothari and Mr. Priyansh
Jain i/b. M/s. Apex Law Partners for the
petitioners/applicants.

Mr. Prakash Shinde a/w. Niyati Merchant i/b. MDP &
Partners for respondent No.2-Bank.

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

DATE: OCTOBER 28, 2021

P.C. :

This writ petition is directed against two orders of the same date, i.e., August 9, 2021, passed by the Presiding Officer, the Debts Recovery Tribunal No.2, Mumbai, on Interlocutory Application No. 745 of 2021 and Interlocutory Application No.746 of 2021. By the first order, the Presiding Officer declined to entertain Interlocutory Application No.

745 of 2021 on the ground that the petitioners have repeatedly failed to comply with the orders passed by the Debts Recovery Tribunal (DRT) as well as an order passed by this Court, dated May 16, 2017, May 19, 2017 and March 27, 2018. By the other order, Interlocutory Application No. 746 of 2021 being an application for amendment was rejected with liberty to the petitioners to file a fresh application under Section 17 (1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act').

2. This writ petition was presented before this Court on August 12, 2021. We are informed by Mr. Shinde, learned advocate for the secured creditor/bank that the Debts Recovery Appellate Tribunal was functional on such date and thereafter. There could be no reason as to why the petitioners, instead of approaching the Appellate Tribunal, invoked the jurisdiction of this Court.

3. The objection has substance. Even otherwise, since liberty has been granted to the petitioners to file a fresh application under Section 17 (1) of the SARFAESI Act, we

do not see any reason to hold that any right of the petitioners has been infringed so as to attract judicial review. The writ petition is dismissed with liberty to the petitioners to pursue legal remedies in accordance with law.

4. In view of the aforesaid order, Interim Application No. 2396 of 2021 is also disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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