

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1203 OF 2021

Shri Prakash s/o Jayramdas Motiyani
and another

... Petitioners

- Versus -

Fullerton India Credit Company Ltd.
and another

... Respondents

Shri Radhe Agrawal, Advocate for Petitioners.

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 3 MARCH 2021

P.C. :

Not on board. Taken on board by way of mentioning.

2) The Petitioners have sought a direction from this Court to prevent the Tahsildar/Executive Magistrate from taking possession of the property in question on 4 March 2021 as per direction issued on 8 February 2021.

3) An order was passed by the Additional District Magistrate on 10 July 2019 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002. The Petitioners challenged the said action before the Debts Recovery Tribunal by way of I.A. No. 874/2019. The Debts Recovery Tribunal on 12 December 2019 directed the Petitioners to pay an amount of rupees eight lakhs and thereafter rupees five lakhs before 10th of every month from January 2020. The Petitioners initially deposited some instalments and thereafter stopped paying the instalments.

4) The only argument that is advanced before us is that the appeal of the Petitioners is pending before the Debts Recovery Appellate Tribunal and order is awaited.

5) It is informed that there is no stay to the order of the Debts Recovery Tribunal dated 12 December 2019 till date. The order of the Debts Recovery Tribunal imposed condition of deposit of amount. The Petitioners have defaulted in this payment and, therefore, the Respondents have moved the matter.

6) In these circumstances, when the matter is already pending before the Debts Recovery Appellate Tribunal, we do not intend to exercise our writ jurisdiction. In case Debts Recovery Appellate Tribunal passes any interim order, it has all the powers to restore status quo ante. It is open to the Petitioners, if they seek to avoid attachment of property, to clear the arrears of

amount or approach the Tribunal. Writ Petition is accordingly disposed of.

7) We make it clear that these observations are only for the purpose of not exercising our writ jurisdiction and Debts Recovery Appellate Tribunal will decide the pending application on its own merits and as per law.

(ANIL S. KILOR, J.)

(NITIN JAMDAR, J.)

khj

**Kamal
Jeswani** Digitally signed
by Kamal Jeswani
Date: 2021.03.06
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