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

**WRIT PETITION NO.2591/2021**

**Satpuda Hills Resort Pvt. Ltd., Nagpur represented through its authorized Director Shri Bharatkumar Devidas Bhurewar**
**...Versus...**
**Bank of India, Nagpur Tq. & Dist. Nagpur through its Chief Manager/Chief Head**

| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders |
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Shri U.K. Bisen, Advocate for petitioner

**CORAM : DIPANKAR DATTA, C.J. &**
**A.S. CHANDURKAR, J.**

**DATE : JULY 26, 2021**

1. The petitioner – company is a borrower within the meaning of such term under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act" hereinafter). By presenting this writ petition dated 21/7/2021, the petitioner seeks a direction on the respondent, i.e., the secured creditor to forward a proposal for one-time settlement under the scheme for One Time Settlement of the respondent to the competent authority, in view of certain correspondences exchanged by and between

the parties. The petitioner also seeks a declaration that the secured creditor has no right to issue auction notice dated 1/7/2021 published in the daily 'Lokmat' in its edition dated 1/7/2021 and to put the properties of the petitioner for sale.

2. Time and again, the Supreme Court has cautioned the High Courts not to derail the procedure for redress engrafted in the SARFAESI Act as well as the provisions of the Security Interest (Enforcement) Rules framed thereunder by entertaining writ petitions and interfering with proceedings initiated under such provisions, in the absence of any substantial prejudice or gross injustice having been suffered by a borrower. The SARFAESI Act being a complete code in itself, any discrepancy in following the procedure prescribed therein can/should be assailed in the forum provided thereunder. If any authority is required, one may profitably refer to the decisions reported in ***(2020) 10 SCC 659*** *[L & T Housing Finance Limited Vs. Trishul Developers and another]*, ***(2020) 4 SCC 440*** *[K. Virupaksha and another Vs. State of Karnataka and another]*, ***(2019) 2 SCC 198*** *[Hindon Forge Private Limited and another Vs. State of Uttar Pradesh through District Magistrate, Ghaziabad and another]* and ***(2010) 8 SCC 110*** *[United Bank of India Vs. Satyawati Tondon and others].*

3. With the issuance of the sale notice, which is a measure in terms of sub-section (4) of Section 13 of the SARFAESI Act, the petitioner has a remedy in terms of Section 17 thereof. It has not availed such remedy, though it could move the jurisdictional Debts Recovery Tribunal for redress. Not having taken recourse to the remedy provided by the SARFAESI Act, this writ petition has been presented which, we are inclined, to hold is not entertainable.

4. The writ petition stands dismissed. There shall be no order as to costs.

5. This order shall not preclude the petitioner to pursue its remedy under Section 17 of the SARFAESI Act in accordance with law.

**(A.S. CHANDURKAR, J.)** **(CHIEF JUSTICE)**

Wadkar