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

WRIT PETITION NO. 3075 OF 2020

M/s. Radha Ispat and others -- Petitioners
vs.
The State of Maharashtra and others --Respondents

Mr. A. S. Gupta, Advocate for Petitioners.
Mr. D. P. Thakare, Addl.G.P. for Respondent Nos.1 to 4.
Mr. S. N. Kumar, Advocate for Respondent No.5 and 6.

CORAM : NITIN JAMDAR &
ANIL S. KILOR, JJ.

DATE : 23 FEBRUARY 2021

P. C. :

After hearing the matter on the earlier occasion, we had called upon the Petitioners to demonstrate that why the Petitioners cannot approach the Debt Recovery Tribunal and the matter was kept today under the caption "for dismissal".

2. We had listed the matter for dismissal considering the conduct of the Petitioners in pursuing this petition. We had noted that as a condition of grant of interim relief, a Division Bench had passed order dated 11 December 2020 regarding deposit and setting out a time schedule. Admittedly, no amount is paid pursuant to the time schedule.

3. As far back as in November 2014, the Respondent – Bank had issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(Act of 2002). Another notice was issued on 13 January 2016. Both, the Respondent – Bank and the Petitioners, are already before the Debt Recovery Tribunal agitating this clause.

4. The main contention raised in this petition is that the land which is sought to be put to sale cannot be sold being a government land and this being an issue of jurisdiction writ should be entertained. The Petitioner has confused between the jurisdiction and power of the Respondent – Bank to take action against the property and the jurisdiction of the Debt Recovery Tribunal to examine the issue. The Debt Recovery Tribunal has the jurisdiction to consider the contentions raised by borrower regarding the exercise of power of Bank against the property. Since both, the Respondent – Bank and the Petitioners, are before the Debt Recovery Tribunal they can advance all contentions as may be availabe in law and facts.

5. A cautionary note is sounded by the Apex Court in the case of *United Bank of India vs. Satyawati Tondon*[1] against the High Court exercising writ jurisdiction in the debt recovery matters, which exercise should be restricted to exceptional cases.

1 (2018) 3 SCC 85

When a complete and self contained code with remedy i.e. provided under the Act, 2002 it is not necessary to entertain the Petition.

6. Keeping all contentions of the parties open to be considered before the Debt Recovery Tribunal, Writ Petition is rejected.

7. The interim order dated 11 December 2020 stipulated that in case there is a breach of the schedule the Petitioner would pay costs of Rs.1 Lakh. Admittedly, since no amount is paid, the Petitioner will have to pay cost of Rs.1 Lakh to the Respondent Bank. The Debt Recovery Tribunal will enforce this direction of the Court.

[ANIL S. KILOR, J.] [NITIN JAMDAR, J.]