

PMB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9429 OF 2021**

Athani Sugars Limited	..Petitioner
vs.	
Indira Gandhi Bharatiya Mahila Vikas Sahakari Sakhar Karkhana Limited and ors.	..Respondents

Mr. G.S. Godbole a/w Mr. Sumit Kothari for petitioner.
Mr. Rajesh Nagory a/w Ms. Sabeena Mahadik for respondent
nos. 2 and 3.
Mr. Raju Uttam Shinde a/w Priyanka Desai for respondent
no. 4.
Mr. Swanand Kulkarni for respondent no. 1.
Ms. R.A. Salunkhe, AGP for State.

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

DATE : MARCH 21, 2022

P.C. :

1. The office of the Chairperson, Debts Recovery Tribunal, Mumbai (hereafter "DRAT(M)", for short) was vacant since September 15, 2021. As a result thereof, the proceedings initiated before the DRAT(M) by the petitioner challenging the order dated December 6, 2021 of the Presiding Officer, Debts Recovery Tribunal-III (hereafter "DRT-III", for short) could not be proceeded with and the writ jurisdiction of this Court was invoked seeking appropriate relief.

2. This writ petition was entertained having regard to the order dated December 16, 2021 of the Supreme Court of India in Special Leave Petition (C) No. 10911 of 2021 (**State Bar Council of Madhya Pradesh Vs. Union of India**).

3. By order dated December 23, 2021, the authorised officer, respondent no. 3, was allowed by us to take symbolic possession of the sugar mill at Anturli (Tambale)-416210, Taluka Bhudargad, District Kolhapur. Further, inventory as directed by the DRT-III vide clause (4) of the operative directions contained in the order dated December 6, 2021 was allowed, in the presence of 2 (two) officials of the respondent no. 1 herein, on December 27, 2021, at 10.00 hours. The second part of clause (3) of the operative directions directing restoration of possession of the sugar mill in favour of the respondent no. 1 was, however, stayed until further orders of this Court.

4. By a further order dated February 4, 2022, we recorded compliance of the directions contained in the earlier order dated December 23, 2021 and directed *status quo* to be continued till the next date, i.e., March 10, 2022. It was also observed that if the Chairperson of the DRAT (M) is appointed before March 10, 2022, the parties shall be at liberty to apply for appropriate relief before it.

5. Today, we are informed that the Chairperson of the DRAT(M) has assumed charge of his office on March 16, 2022. In view thereof, a prayer is made on behalf of the

petitioner by Mr. Godbole, learned advocate to dispose of the writ petition by granting liberty to the petitioner to raise all points that are available to it in law in the appeal that it has preferred before the DRAT(M).

6. Mr. Swanand Kulkarni, learned advocate appearing for the respondent no. 1 submits that it ought to be clarified that the arrangement brought about by the order dated December 23, 2021 is purely an interim arrangement pending assumption of charge of office by the Chairperson of the DRAT (M) and that while considering the appeal filed by the petitioner, the DRAT(M) should not be influenced either by reason of entertainment of this writ petition or by the orders passed therein.

7. In view of the fact that the Chairperson of the DRAT (M) has assumed charge of his office, we see no reason to decline the prayer of Mr. Godbole.

8. The writ petition is disposed of. No costs.

9. Leave is granted to the parties to raise all legal points that are available to them for being urged before the DRAT(M) for an appropriate decision by it. It is observed by way of abundant caution that the order dated December 23, 2012 was passed bearing in mind what the facts and circumstances of the case warranted and that the same was an interim arrangement pending appointment of the Chairperson of the DRAT(M) and consequent assumption of charge of office by him. Obviously, the same cannot influence the decision of the DRAT(M) once it proceeds with

hearing of the appeal and connected application, if any, filed by the petitioner. However, such interim arrangement shall continue to be operative till May 13, 2022 or until further orders are passed by the DRAT(M), whichever is earlier.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)