

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 909 OF 2022
WITH
INTERIM APPLICATION NO. 519 OF 2022**

M/s. K.K. Associates, through
proprietor Kailash D. Tonde & Anr. ...Petitioners
V/s.
State Bank of India & Anr. ...Respondents

Mr. Sudhir C. Halli with Ms. Ruchira Halli for the petitioners/
applicants.
Mr. Vivek S. Sawant, for the respondents.
Mr. D.P. Singh for Union of India, is present.

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

DATE: MARCH 3, 2022

P.C.:

1. The writ petition registers a challenge to an order dated 5th April 2018 passed by the Debts Recovery Tribunal, Pune (hereafter "the Tribunal", for short) in Original Application No. 103 of 2017. By such order, the application under section 19 of the Recovery of Debts and Bankruptcy Act, 1993 filed by the respondent no. 1 was allowed. The defendants, being the petitioners herein, were directed to pay Rs. 3,92,85,268/- with further interest at the rate of 12% per annum from the date of filing of the original application, i.e., 27th December 2016, till payment/realization.

2. It is not in dispute that challenging such order, a belated appeal has been carried by the petitioners before the Debts Recovery Appellate Tribunal, Mumbai [hereafter "DRAT(M)", for short]. The accompanying application for condonation of delay is stated to be pending.

3. We had permitted this writ petition to be moved on 31st January 2022, since an apprehension was expressed on behalf of the petitioners that possession of the secured asset was likely to be taken over by the secured creditor on that day. Hearing the submission advanced on behalf of the respondent no. 1 by Mr. Sawant, learned advocate that possession had been handed over to the auction purchaser on 23rd December 2021, we declined interim relief. However, it was observed that the petitioners would be at liberty to file an application for amendment of the writ petition for impleading the auction purchaser as an additional respondent.

4. Availing such liberty, Interim Application No. 519 of 2021 has been filed by the petitioners for amendment of the writ petition.

5. There have been certain developments since the order dated 31st January 2022 was passed. By a notification issued on 16th February, 2022 by the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Secretariat of the Appointments Committee of the Cabinet, Justice Ashok Menon, former Judge, High Court of Kerala, has been appointed as the Chairperson, DRAT(M). We enquired from Mr. D.P. Singh, learned advocate, who generally appears for the Government of India and is present in Court, about the probable date of

assumption of charge of office by Justice Ashok Menon and have been informed that although 20th March 2022 is the last date therefor, in all likelihood Justice Ashok Menon will be assuming charge of his office even before that date.

6. Be that as it may, it would be open to the petitioners to seek such relief as they may be advised before the DRAT(M). We do not feel inclined to pass any order on this writ petition, which evidently is not maintainable at this stage having regard to the remedy available to the petitioners and which is being pursued by them.

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

8. All contentions left open.

9. In view of the above, the interim application does not survive and is disposed of as such.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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signed by
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