

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

WRIT PETITION NO. 2686 OF 2022

Atlanta International	}	Petitioner
Versus		
M/s. Axis Bank Limited	}	
and Anr.	}	Respondents

Mr. Mayank Bagle i/b. Mr. Durvesh D. Rege for the petitioner.

Mr. Alok Mishra for respondent no. 1.

Mr. B. V. Samant-AGP for State.

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

DATE: MARCH 9, 2022

P.C.:

1. Not on board; taken on board.
2. This writ petition is directed against an order dated 9th March 2022 passed by the Presiding Officer, Debts Recovery Tribunal-II, Ahmedabad (hereafter "DRT-II(A)", for short) in Securitisation Application No. 141 of 2022, declining interim relief to the petitioning borrower. The Presiding Officer has recorded in such order that a separate detailed order would follow.
3. The writ jurisdiction of this Court is invoked on the ground that there is a vacancy in the office of the Chairperson of the Debts Recovery Appellate Tribunal, Mumbai (hereafter "DRAT(M)", for short) and, therefore, the appellate remedy provided by section 18 of the Securitisation and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter "SARFAESI Act", for short) not being available, the petitioner would be put to extreme prejudice, loss and injury if the process of taking over possession of the secured asset, scheduled today at 3.20 p.m., is not interdicted.

4. We have been informed by the learned advocate for the respondent no. 1 (secured creditor) that as on date the petitioner owes Rs. 3.75 crore and also that after the account was classified as non-performing asset in 2018, not a single farthing has been paid for clearing the liability.

5. The offer on behalf of the petitioning borrower before us is for allowing payment of an upfront amount of Rs. 10 lakh. The conduct of the petitioning borrower is not such that it would inspire confidence and, therefore, this is not a case where it deserves discretionary relief. If indeed possession of the secured asset is taken by the respondent no. 1 and ultimately the DRT-II(A) or the DRAT(M), as the case may be, concludes that possession of the secured asset was not taken in accordance with the provisions of the SARFAESI Act, the relevant tribunal would have the authority to restore possession of the secured asset in favour of the petitioning borrower in terms of section 17(3) thereof.

6. In such view of the matter, we decline interference and dismiss the writ petition. There shall be no order as to costs.

7. All contentions on merits are left open.

SALUNKE
J V

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SALUNKE J V
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(M. S. KARNIK, J.)

(CHIEF JUSTICE)