

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

WRIT PETITION NO. 308 OF 2022

Venus Multispecialty Hospital Pvt. Ltd., & Ors.,

..VS..

The Debts Recovery Tribunal, Nagpur and Ors.,

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Dilip Daga, Advocate for petitioners.

Shri M. Anilkumar, Advocate for respondent No.2.

Shri A.M.Kadukar, A.G.P for respondent No.3.

CORAM : SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.

DATED : 19.01.2022

1. Hearing is conducted through Video Conferencing and all the learned Advocates agreed that the audio and visual quality was proper.

2. Heard Shri Daga, learned counsel for the petitioners and Shri M. Anilkumar, learned counsel for the respondent No.2, who appears by waiving notice and Shri A. M. Kadukar, learned A.G.P for respondent No.3, who appears by waiving notice. There is no need to issue any notice to respondent No.1.

3. The petitioners are desirous of challenging the legality and correctness or otherwise of the judgment and order dated 24.12.2021, thereby rejecting the challenge raised to the order passed under Section 14 of the Securitization and Reconstruction of the Financial Assets

and Enforcement of Security Interest Act, 2002 (for short the “SARFAESI Act”) by the Additional District Magistrate but are unable to do so as presently DRAT, Mumbai is not functional, there being no Presiding Officer appointed to preside over the Appellate Tribunal. Considering the nature of right of appeal given to a party like the petitioner under Section 18 of the SARFAESI Act, we are inclined to grant interim relief to the petitioners to enable them to approach the DRAT, Mumbai under Section 18 of the SARFAESI Act.

4. Accordingly, we direct that the petitioners may file an appeal under Section 18 of the SARFAESI Act against the impugned judgment and order passed by the DRT, Nagpur within a period of two weeks from the date of the order, which shall be subject to the following condition :-

(i) At the time of filing of the appeal, the petitioners shall deposit with the respondent No.2-Bank 50% of the amount demanded in the notice issued under Section 13(2) of the SARFAESI Act.

5. Subject to the compliance with the above referred condition, there shall be stay to the impugned judgment and order passed by the DRT, Nagpur and also the order passed under Section 14 of the SARFAESI Act, against which appeal is going to be filed by the petitioners and this stay shall remain in operation for a period of 15 days after Presiding Officer is appointed and takes over the charge of DRAT, Mumbai.

6. We make it clear here that no further time for complying with the aforestated condition shall be granted and if the condition so stipulated herein above is not complied with, the stay hereby granted shall stand vacated without any reference to this Court.

7. The Writ Petition is **disposed of** in the above terms.
No costs.

JUDGE

JUDGE

Kirtak