

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

WRIT PETITION NO.5424/2021

Sachin s/o Kavduji Makde and another.

Vs.

State Bank of India through its Branch Manager, R. A. C. P. C. Branch (main Branch), Kingsway Road, Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Hitesh A.Rewatkar, Advocate for petitioners.

Shri S.N.Kumar, Advocate with Ms. Anita Bhojwani, Advocate for respondent no.1.

Ms H.N.Jaipurkar, Assistant Government Pleader for respondent no.2.

CORAM :- A.S.CHANDURKAR AND G.A.SANAP, JJ.

DATE :- FEBRUARY 22, 2022.

The challenge raised in this writ petition is to the order passed by the Sub-Divisional Magistrate in proceedings under Section 14 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act of 2002'). In addition, the sale notice issued by the respondent no.1-Bank has also been subjected to challenge.

On 21.12.2021 notice was issued in the writ petition after it was urged on behalf of the petitioners that there was no Presiding Officer available at the Debts Recovery Tribunal, Bench at Nagpur to consider the grievances of the petitioners. It is now informed by the learned counsel for the respondent no.1 that the charge of the Nagpur Bench of Debts Recovery Tribunal has been given to the learned Presiding Officer, Debts Recovery Tribunal-I, Mumbai.

We find that a statutory remedy under Section 17 of the Act of 2002 is available for being availed by the petitioners for redressal of their grievances. Since the present writ petition would require adjudication of certain disputed aspects, we are inclined to permit the petitioners to avail

such statutory remedy under the Act of 2002. Accordingly, writ petition is disposed of by granting liberty to the petitioners to avail the statutory remedy under the Act of 2002. All points raised in the writ petition are kept open. No costs.

The ad-interim relief of not disturbing the petitioners physical possession as granted shall continue to operate for the period of two weeks from today and shall automatically cease to operate thereafter. If any application for grant of interim relief is made before the Debts Recovery Tribunal, the same shall be considered on its own merits without being influenced by observations made in this order.

(G.A.SANAP, J.)

(A.S.CHANDURKAR, J.)

Andurkar..