

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.670 OF 2023

**KAILAS GIRIRAJ SHARMA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR AND
OTHERS**

...
Advocate for Petitioners : Mr. M. G. Deokte & Mrs. Dhumal S. A. (Tambat)
AGP for Respondents/State: Mr. A. S. Shinde
...

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 17.01.2023

PER COURT :

. Heard.

2. The matter was kept yesterday and the circulation was granted for today only on the ground that the Presiding Officer of the Debts Recovery Appellate Tribunal at Mumbai, before whom, the petitioners have preferred an appeal under Section 18(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, was not available because of his illness and that possession of the secured asset was to be taken today.

3. Learned advocate Mr. Deokate for the petitioners submits that the Presiding Officer of Appellate Tribunal has resumed yesterday afternoon. He

submits that the petitioners would now pray for interim relief before the Debts Recovery Appellate Tribunal, however, breathing time be given to them as otherwise in all probability, the secured asset would be taken in possession, which is a residential house purchased in the name of the borrower, who happens to be the petitioners' real brother and the property is purchased by their father in his name. He also points out that in fact, in 2017, they have filed a Regular Civil Suit, which was subsequently converted as Special Civil Suit, for partition including the secured asset. They had also responded to the public notice by putting up a claim as raised in the proceeding before the Debts Recovery Tribunal, Aurangabad but it has been rejected by the order, which is impugned before Debts Recovery Appellate Tribunal.

4. Considering the exigency, we dispose of the writ petition by granting some breathing time. The petition is disposed of by directing the respondents that the possession of the secured asset shall not be taken for 48 hours, if it has not already been taken.

5. Parties to act on an authenticated copy of this order.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)