

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1543 OF 2023

Nita Sunil Amrutkar and Another)...Petitioners

V/s.

The Chief Manager and Another)...Respondents

Mr. Tushar Sonawane a/w. Ms. Pooja Satpute, Advocate for the
Petitioners.

Mr. R.S.Pawar, Advocate for the Respondent No.1.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.**

DATE : 8 FEBRUARY 2023

P.C.

Heard the learned counsel for the parties.

2 The Petitioner is seeking to challenge the action taken by the secured creditor in respect of the property in question under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

3 The Petitioner is before us contending that Petitioner is a bonafide purchaser of the property which is put to auction by public notice issued on 21 January 2023. The learned Counsel for the Respondent no.1-secured creditor submits that Petitioner has remedy to approach the Debt Recovery Tribunal.

4 Since the SARFAESI Act is a complete code and that petitioner has a remedy to approach the Debt Recovery Tribunal, we are not inclined to interfere in the writ jurisdiction. The learned Counsel for the Respondent no.1 points out that even if auction takes place, the stage of taking actual physical possession would not immediately arise. This would give time to the Petitioner to approach the Debt Recovery Tribunal.

5 Keeping all contentions of the parties open and clarifying that the auction proceedings would be subject to the outcome of the proceedings before the Debt Recovery Tribunal, if the Petitioner to file such an application within a period of one week, we dispose of the Writ Petition.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)