

SA Pathan

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

WRIT PETITION NO. 2556 OF 2023

Manojkumar Sureshchand Lunkad
& Ors.

....Petitioners

V/s.

The Authorized Officer,
Punjab National Bank & Ors.

....Respondents

Mr. R. D. Soni i/by Ram & Co. for the Petitioners.

Ms. Hema Desai i/by Singhi & Co. for Respondent No.1.

Mr. Sidharth Samantaray i/by Mr. Puneet Gogad for Respondent
Nos. 2 to 5.

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

DATE : 2 MARCH 2023

P.C. :-

Heard learned Counsel for the parties.

2. The petitioner is before us challenging the order passed by the Debt Recovery Appellate Tribunal directing predeposit for consideration of Appeal filed by the Appellant. The order is of 10 January 2023. The Petitioner has sought extension of time to deposit the second installment of Rs.50 lakhs as directed in the order dated 10 January 2023. In this case the secured asset was put to sale. It is purchased by auction purchaser at Rs.2,35,00,000/-

(Rs. Two Crore Thirty Five Lakhs only). The auction purchaser is yet to put in possession.

3. The Petition came up on board on 28 February 2023. Time was granted till 1 March 2023 at the request of the learned Counsel for the Petitioner to deposit the balance amount, to which the Respondents had agreed. It was expected that in this extended period, the balance amount would be paid.

4. Today, the learned Counsel for the Petitioner states that the Demand Draft amount of Rs.5 lakhs is ready. We do not approve of this conduct of the Petitioner. At least substantial amount out of Rs.50 lakhs should have been presented. We may note here that since the matter was not listed on 1 March 2023, the Petitioner got an extra day.

5. We can not overlook the rights created in favour of the auction purchaser, who is not put in possession. Predeposit is a requirement of the statute and the Appellate Tribunal had already granted time to the Petitioner, which we further extended on the assurance as above. No further extension is possible in view of this conduct of the Petitioner.

6. The Writ Petition is accordingly rejected.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)