

SA Pathan

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

WRIT PETITION NO. 3034 OF 2023

Parag Vinay Deshpande

....Petitioner

V/s.

Shriram Housing Finance Ltd
& Ors.

....Respondents

.....

Mr. P. M. Joshi i/by Sagar Bhirange for the Petitioner.

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

DATE : 8 MARCH 2023.

P.C. :-

Heard learned Counsel for the Petitioner.

2. The Petitioner has challenged the order dated 1 February 2023 passed by the Debt Recovery Tribunal, Pune (“DRT” for short) whereby upon an Application made by the Petitioner to stay the operation of the order dated 31 January 2023 as Petitioner intends to file the Miscellaneous Appeal before the Debt Recovery Appellate Tribunal (“DRAT” for short), the DRT

had granted protection to the Petitioner till appeal period is over, upon deposit an amount of Rs.15 lakhs by 2 February 2023.

3. The learned Counsel for the Petitioner states that the Petitioner intends to file an Appeal. However, in view of the fact that auction is scheduled on 10 March 2023, some time may be granted to the Petitioner and protective order may be granted as against order dated 31 January 2023 passed by the Debt Recovery Tribunal, Pune.

4. The Petitioner has to file an Appeal before the DRAT which fact, is accepted by the Petitioner. If, the Petitioner wanted a protective order, the Petitioner could have applied before the DRAT. However, the Petitioner has filed an Application before DRT and, to enable the Petitioner to avail the remedy of appeal, the DRT has stayed the impugned order by imposing the condition.

5. We do not find any reason to interfere on merits in this Writ Petition. As regards protective order is concerned, it is only that the auction scheduled be deferred. We are informed that the Petitioner is no longer in possession of the secured asset. There is no reason to defer the auction as per the rules governing the auction, the final sale certificate is not issued

immediately, giving the Petitioner sufficient time to approach the DRAT.

6. However, we do observe that if the auction does take place in the meanwhile, it would be subject to the appeal that would be filed by the Petitioner before DRAT, if filed, within a period of one week with due deposit.

6. The Writ Petition is dismissed.

7. Since, the Respondents are not represented, we keep all contentions of the parties open.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)