

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

WRIT PETITION NO.5567 OF 2023

Mr.Bhawani Singh J. Rathore

... Petitioner

V/s.

M/s Anant Rathi Global Finance Limited and ors.... Respondents

Mr.A.M.Saraogi i/by Mr.Kotesch Reddy, Advocates for the Petitioner.

Mr.Nikhil Rajani with Mr.A.Kulkarni and Ms.Snepy Ambawat i/by
M/s V. Deshpande & Co., Advocates for Respondent No.1.

Mr.Vivek Upadhyay, Senior Legal Officer for Respondent No.1 present.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.
DATE : 19 APRIL 2023.**

P.C.:-

1. Heard learned counsel for the parties.
2. The Petitioner who is the third party, neither a borrower nor a guarantor is before us seeking to challenge the action of Respondent-secured creditor. The petition had come up on board yesterday when learned counsel for the Petitioner had submitted that the Petitioner will apply to the Debt Recovery Tribunal ("DRT" for short) under section 17 of the Securitisation and Reconstruction of Financial Assets

Priya Soparkar

and Enforcement of Security Interest Act, 2002 (“SARFAESI Act” for short) and some protective order be passed so that Petitioner can effectively take recourse to the statutory remedy. The learned counsel for the parties state that two flats are involved in this petition viz. flats No.B-803 and B-804.

3. According to the Petitioner, the Petitioner is not in possession. According to the Respondent-secured creditor, on instructions, the Respondent has not taken possession of the flats in question.

4. In the light of this statement made and the stand of the Petitioner that he is not in possession, we direct that the Respondent-secured creditor will give two weeks advance notice to the Petitioner if and when the Respondent-creditor will proceed in respect of the flats in question.

5. We dispose of the writ petition accordingly keeping the contentions of the parties open.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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