

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

WRIT PETITION NO.5565 OF 2023

Mr.Harminder Singh Lallie and ors. ... Petitioners
V/s.

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

Mr.Naveen Chomal i/by Mr.Kotesch Reddy, Advocates for the
Petitioners.

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

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

DATE : 19 APRIL 2023.

P.C.:-

1. Heard learned counsel for the parties.

2. The Petitioners who are the third parties, neither a borrower nor a guarantor are before us seeking to challenge the action of Respondent-secured creditor. The petition had come up on board yesterday when learned counsel for the Petitioners had submitted that the Petitioners will apply to the Debt Recovery Tribunal ("DRT" for short) under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act" for short) and some protective order be passed so that Petitioners can effectively take recourse to the statutory remedy. The learned counsel for the Respondent-secured creditor states that three flats are involved in this petition. As far as flats No.B-401 and B-

Priya Soparkar

403 are concerned, possession is taken by the secured creditor on 31 March 2022 under section 14 of the SARFAESI Act. This fact is not disputed.

3. As regards the third flat B-601 is concerned, it is informed that the Petitioners are in physical possession.

4. Since the Petitioners intend to approach the DRT, as regards the possession of the Petitioners in respect of flat No.B-601 is concerned, the same shall not be disturbed for four weeks from today. We make it clear that we are granting ad-interim relief only because the Petitioners before us are admittedly not borrowers and claim to be third party purchaser of the flat. Grant of the interim order shall not be construed that we have accepted that there is merit in the Petitioners' case and it is for the DRT to decide whether the protection needs to be continued or otherwise on its own merits.

5. As regards flats No.B-401 and 403 are concerned which the Respondent-secured creditor is stated to be in possession thereof, if the Respondent-secured creditor is proposing to deal with these flats, the Respondent-secured creditor will give an advance notice of two weeks to the Petitioners so that Petitioners can seek necessary orders on its own merits from the DRT.

6. The writ petition is accordingly disposed of keeping the

contentions of the parties open.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)