IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5662 OF 2023

Bholanath Shyam Narayan Singh and ors. … Petitioners

V/s.

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

Mr.Vaibhav A. Singh, Advocate for the Petitioners.

Mr.Nikhil Rajani with Mr.A.Kulkarni and Ms.Snepy Ambawat i/by M/s V. Deshpande & Co., Advocates 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 parties state that one flat viz. flat No.A-403 is involved in this petition.

3. It is informed by the learned counsel for the Petitioners that Petitioners are in possession.

4. In case the Petitioners approach the DRT, as regards the possession of the Petitioners in respect of flat No.A-403 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. Writ Petition is disposed of as above keeping the contentions of the parties open.

(ABHAY AHUJA, J.) **(NITIN JAMDAR, J.)**

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