

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12870 OF 2022

Shri Nandkumar Gopalrao Kulkarni)...Petitioner

V/s.

HDFC Bank Ltd. and Another)...Respondents

Mr. Karan S. Thorat, Advocate for the Petitioner.

Mr. Chetan Agrawal, Advocate for the Respondents.

CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.

DATE : 10 MARCH 2023

P.C.

The Petitioner has challenged the order passed by the Debt Recovery Tribunal (DRT) dated 10 August 2022 dismissing Interim Application No.888 of 2022 in Securitisation Application No.74 of 2021. The learned Counsel for Respondent-Bank rightly points out that the Petitioner has a remedy of filing an Appeal in the Debt Recovery Appellate Tribunal (DRAT). It is laid down in various decisions of the Hon'ble Supreme Court that

Securitization Act is a complete code in as much as it provides for remedies albeit upon condition and therefore, the Writ Petition ought not to be entertained unless exceptional circumstances are made out.

2 We find no such exceptional circumstance. The learned Counsel for the Petitioner states that Petitioner has paid a certain amount and they are ready for 'One Time Settlement'. A writ of mandamus to the bank cannot be issued that they must accept the 'One Time Settlement'. It is between the borrower and the bank.

3 The Petitioner had moved the Vacation Bench on 2 November 2022 and while issuing notice, ad-interim relief has been granted. In light of what is stated above and the binding dicta of the Hon'ble Supreme Court, it is not possible to entertain the Petition. However, considering that ad-interim relief is in operational since 2 November 2022, the same is extended for a period of two weeks from today, so that if the Petitioner wishes to file an Appeal, the Petitioner can do so during this grant of ad-interim order. Grant and extension of ad-interim order is not to be construed of reflection on merits of the case. The extension, if any, thereafter, would be purely

on its own merit. The learned Counsel for the Respondents objects to continuation of the ad-interim order stating that no notice was given while granting the ad-interim order. Be that as it may, to give some breathing time to the Petitioner, we have extended the ad-interim order for a period of two weeks as stated above.

4 The Writ Petition is accordingly disposed of.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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signed by
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