

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

WRIT PETITION NO.5428 OF 2023

Deutsche Bank

... Petitioner

V/s.

Shekhar Ramjeet Singh and ors.

... Respondents

Mr.R.L.Motwani, Advocate for the Petitioner.

Mr.A.M.Saraogi, Advocate for Respondent No.1.

Ms.Shruti D. Vyas, "B" Panel Counsel for Respondent No.7.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.
DATE : 17 APRIL 2023.**

P.C.:-

1. Heard learned counsel for the Petitioner.
2. The Petitioner claiming to be a secured creditor has sought challenge to the order passed by the Presiding Officer of the Debt Recovery Tribunal ("DRT" for short) in Interlocutory Application No.2316 of 2022 dated 11 October 2022. By this order the DRT has directed the Petitioner to take appropriate steps to get Court Receiver discharged and till then the Petitioner will not take the physical

Priya Soparkar

possession of secured assets. According to the Petitioner, the Court Receiver has been appointed by the concerned Civil Court, whereby fraud has been played on the Civil Court by the borrowers and therefore, this court should set aside the impugned order and permit the Petitioner to proceed to take steps under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act" for short). It is not in debate before us that against this order appeal lies to the Debt Recovery Appellate Tribunal.

3. It is the contention of the Respondents that a factual inquiry cannot be undertaken in a writ, since the substantive appeal is available under the SARFAESI Act, which held by the Hon'ble Supreme Court as a complete code.

4. As far as writ remedy is concerned, we are not inclined to exercise the writ jurisdiction. It is always upon to the parties to assail the order passed by the DRT after the same is rendered. However, keeping in mind the object of the SARFAESI Act, if appeal is filed, the same be taken up on priority basis.

5. The writ petition is accordingly disposed of.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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