

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3782 OF 2023

(Mr. Shyamal Jaidev Panchmatiya & Anr. Vs. Authorised Officer, Union Bank of India & Anr.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Ms Fatima Barodawala with Ms Radhika Bajaj, Advocate for the petitioners.
Shri M.G. Bhangde, Senior Advocate with Shri S.D. Ingole, Advocate for the respondents.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : JUNE 20, 2023

Heard.

2] By this Writ Petition filed under Article 226 of the Constitution of India, challenge is raised to the order dated 19/6/2023 passed by the learned Presiding Officer, Debts Recovery Tribunal, Nagpur refusing to grant any interim relief in the proceedings filed by the petitioners herein. The prayer made in the interim application was to stay the auction notice that was published by respondent No.1 dated 3/6/2023 proposing to auction the properties in which the petitioners claim interest. The said auction is to be held today at 11:00 am. While rejecting the said application, the Tribunal has clarified that if the e-auction is concluded, the same would be subject to the outcome of the Securitisation Application.

3] The learned Counsel for the petitioners by relying upon the judgment dated 25/5/2023 passed in the Company Appeal preferred by petitioner No.2 before the National Company Law Appellate Tribunal submits that time of 30 days was granted to petitioner No.2 to submit a compromise or arrangement before the Liquidator and a further direction to keep the liquidation proceedings in abeyance for a period of 90 days came to be issued. As of today, petitioner No.2 still has 4 days to submit the compromise or arrangement plan with the Liquidator. In view of the auction being conducted today, petitioner No.2 would be deprived of the opportunity granted to submit compromise or arrangement plan by NCLAT. It is urged that though the Tribunal has made the e-auction subject to the outcome of the proceedings, the same would cause harm to the petitioners since they would not be in a position to submit such compromise or arrangement once the auction takes place. It is thus urged that this Court ought

to interfere in the matter especially when the order passed by the Tribunal is non-speaking and without considering the relevant aspect.

4] The Writ Petition is opposed by the learned Senior Advocate for the respondents by urging that an alternate efficacious remedy of appeal before the Debts Recovery Appellate Tribunal is available. There is no embargo on the Bank to conduct auction notwithstanding the time granted to petitioner No.2 to submit compromise or arrangement. It is further submitted that the petitioners have not demonstrated the steps taken by them in the last 26 days pursuant to such liberty. Moreover, by virtue of provisions of Section 230(2)(c) of the Companies Act, 2013, the Bank itself has a claim of 92% against the debtors and hence satisfaction of the said requirement would not be possible. It is thus submitted that there is no exceptional case made out to entertain the Writ Petition.

5] Having heard the learned Counsel for the parties, we find that the Tribunal while refusing to grant any interim relief on 19/6/2023 has nevertheless made the e-auction subject to outcome of the proceedings. In our view, this direction is sufficient for us not to entertain the Writ Petition. We do not find that there is any exceptional case made out to enable this Court to exercise discretionary jurisdiction especially when the impugned order can be challenged before the Debts Recovery Appellate Tribunal. The impugned order does not prevent the petitioners from taking benefit of the time granted by NCLAT to submit their compromise or arrangement plan within 30 days. Since we find that the interests of the petitioners are sufficiently protected by the Tribunal, we are not inclined to interfere in writ jurisdiction.

6] The Writ Petition is therefore dismissed. No costs.

7] At this stage, the learned Counsel for the petitioners prays for maintaining today's position for a period of four weeks. For the reasons assigned by us above, we do not find any ground made out to accept this request. The same is accordingly rejected.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

SUMIT