

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3093 OF 2024**

**SHRADDHA
KAMLESH
TALEKAR**

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SHRADDHA KAMLESH
TALEKAR

Date: 2024.03.14
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1) Sultan Shirajuddin Yasin Mohd.
Aged 50 years, Occ. : Business,

2) Shabana Sultan Shirajuddin
Aged 40 years, Occ. : Business,
Residing at 1701, 17th Floor,
Tulip Building, Regency Garden CHS Ltd.,
Shaukatlal Road, Plot No. 10, Sector No.6,
Kharghar, New Panvel-410 210

.. Petitioners

Versus

NKGSB Co-op. Bank ,
a Multi State Schedule Bank,
A Body Corporate Register under
the Multi State Act.
All having its Head Office at
361, V.P. Road, Girgaum,
Mumbai – 400 004.

...Respondent

Ms.Anita Castellino i/b Mr.Mehul Thakker, Advocate for Petitioner.

**Ms.Dimple Tejani a/w. Ms.Reshma Nandilath i/b Sanjay
Anabhawane, Advocate for Respondent-Bank.**

**CORAM : B.P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : MARCH 12, 2024.

P C:

1. The above Writ Petition is filed seeking to challenge the order

passed by the Debt Recovery Tribunal, Pune ('DRT'), dated 14th February 2024. By this order, a stay was granted against the Respondent-Bank from taking possession of the secured asset, i.e., Flat No. 1701, 17th Floor at "Tulip Regency Garden Co.O. Hsg. Soc. Ltd.", Plot No.10, Sector No.06, Kharghar, Navi Mumbai, Tal. Panvel, Dist. Raigad, on the scheduled date, which was on 14th February 2024. This stay was granted subject to the Petitioner depositing 30% of the amount of the Demand Notice. Out of that amount, the Petitioner was directed to deposit 10% of the amount of the Demand Notice by 1:00 p.m. on 15th February 2024 and the balance 20% within two weeks from the said date. In default of payment, the Respondent-Bank was entitled to take possession of the secured asset.

2. The matter has been urgently moved before us because possession of the secured asset is now scheduled for tomorrow, i.e., 13th March 2024.

3. We have heard Ms.Castellino, the learned Advocate appearing on behalf of the Petitioners. We fail to understand why the Petitioners have not approached the Debt Recovery Appellate Tribunal under Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act, 2002"), when adequate time was available to them. When one considers that the order passed by the DRT was dated 14th February 2024, the Petitioners

had adequate time to approach the DRAT to challenge the order passed by the DRT. In these circumstances, we find that there is an equally efficacious alternate remedy available to the Petitioners under Section 18 of the SARFAESI Act, 2002. We, therefore, decline to entertain the above Writ Petition by relegating the Petitioners to the alternate remedy.

4. The Writ Petition is accordingly dismissed. However, there shall be no order as to costs.

5. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B.P. COLABAWALLA, J.]