

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5967 OF 2024

Harbinder Singh Gulati & Anr ...Petitioners

Versus

Anand Rathi Global Finance Ltd & Ors ...Respondents

Mr. Omarjahangir Karanjia, i/b U.S. Rane, Advocates for the
Petitioners.

Mr. Charles D'souza, a/w Nikhil Rajani & Shreyansh Desai, i/b
M/s. V. Deshpande & Co., Advocates for Respondent.

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : APRIL 19, 2024

PC :

1. The above Writ Petition is filed challenging the order passed by the Debt Recover Tribunal-II, Mumbai ("DRT") dated 18th April, 2024. The above Writ Petition is filed in the peculiar circumstances that though the order was pronounced in the open Court on 18th April, 2024, a copy of the order has not yet been uploaded and possession of the secured asset is scheduled to be taken tomorrow (20th April, 2024). The reason for approaching this Court is because the Petitioners are unable

to approach the DRAT for want of a copy of the impugned order.

2. Mr. D'souza, the learned Counsel appearing on behalf of Respondent No.1-NBFC has stated that in fact the possession scheduled for tomorrow has been deferred and, therefore, there is no real urgency for approaching this Court. He submitted that the Petitioners can now avail of the alternate remedy of approaching the DRAT under Section 18 of the SARFAESI Act, 2002 Act.

3. We have heard the learned Counsel for the parties. Once this is the factual position, we dispose of the above Writ Petition by relegating the Petitioners to challenge the impugned order dated 18th April, 2024 before the DRAT under Section 18 of the SARFAESI Act, 2002. We make it clear that Respondent No.1-NBFC shall give at least 96 hours prior notice to the Petitioners, before taking physical possession of the secured asset, so as to enable the Petitioners to approach the DRAT for any urgent reliefs, if necessary.

4. The Writ Petition is disposed of accordingly. 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.]