

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

WRIT PETITION NO.13802 OF 2024

**SNEHA
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Date: 2024.10.08
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Sachin Dinkar Patil and Anr.

.. Petitioners

Vs.

Indian Bank, Andheri (W), Mumbai and Anr.

.. Respondents

Mr. Kishor A. Shinde, Advocate for the Petitioners.

Ms. Fatima Lakdawala, Advocate for Respondent No.1.

Ms. Kavita N. Solunke, Assistant Government Pleader for the Respondent-State of Maharashtra.

Mr. Anand Kuril, Senior Manager (Law) of Respondent No.1-Bank is present.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 7TH OCTOBER 2024.

PC. :

1. The challenge raised in this writ petition is to the order dated 24th September 2024 passed by the learned Chief Judicial Magistrate, Thane deciding proceedings under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The grievance of the petitioner – borrower is that the petitioner was not permitted to raise objections to the proceedings under Section 14 of the said Act of 2002. The applications filed below Exhibits “6” and “7” in that regard came to be rejected. Placing reliance upon the decisions of the Supreme Court in *The Authorised Officer, Indian Bank Vs. D. Visalakshi and Anr. (Civil Appeal No.6295 of 2015)*, along with connected Appeals, decided on 23rd September 2019; *Standard Chartered Bank Vs. V*

Noble Kumar and Ors. (Criminal Appeal No.1218 of 2013), along with connected Appeal, decided on 22nd August 2013; and C. Bright Vs. The District Collector and Ors. (Civil Appeal No.3441 of 2020), decided on 5th November 2020, it is submitted that the Chief Judicial Magistrate ought to have adjudicated the petitioners' contentions.

2. Having perused the impugned order, we find that the learned Chief Judicial Magistrate has referred to the decision of this Court in *Phoenix ARC Private Limited and Ors. Vs. State of Maharashtra and Ors. (Writ Petition No.9749 of 2021)*, decided on 3rd August 2022, which judgment has thereafter not been interfered with by the Supreme Court in *Balkrishna Rama Tarale (Dead), through LRs and Anr. Vs. Phoenix ARC Private Limited and Ors. (Special Leave Petition No.16013 of 2022)*, decided on 26th September 2022.

3. After the applications below Exhibits "6" and "7" were rejected, the proceedings under Section 14 of the Act of 2002 have been finally decided. Remedy of approaching the Debts Recovery Tribunal under Section 17 of the said Act of 2002 is available. Since the learned Chief Judicial Magistrate merely undertakes a ministerial exercise while deciding proceedings under Section 14 of the Act of 2002, the contentions as regards illegality of the order can be raised before the Debts Recovery

Tribunal. Hence, with liberty to the petitioners to approach the Debts Recovery Tribunal and by keeping all points raised open, the writ petition is disposed of as not entertained.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]