



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

WRIT PETITION NO.2841/2024

Shri Karim Khan s/o Mansab Khan and others Vs. Shikshak Sahakari
Bank Ltd. and another

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

Court's or Judge's order

Mr. M. Anil Kumar, Advocate for petitioners.
Mr. Pushkar Ghare, Advocate for respondent no.1.

CORAM : NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.
DATE : APRIL 29, 2024.

The petitioners, alleged tenants since last 2-3 decades are claiming that the landlord mortgaged the property in question, is subsequent to the tenancy created in their favour.

2. According to them, the petitioners' possession was sought to be disturbed in the year 2018 and the petitioners thereafter approached the Court in Second Appeal No.54 of 2018.

3. The petitioners are claiming that by virtue of proceedings taken out under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act' for short), the petitioners are likely to lose the possession.

4. According to him, the petitioners so as to overcome the threat as aforesaid by the respondent-bank has approached the DRT and also made an offer to purchase the property at reasonable cost in auction. However, their prayer was rejected and the petitioners intended to file an appeal before DRAT, however, certified copy of the order is yet to receive.

5. As such, the contentions are that the petitioners be granted time of four weeks so as to enable them to approach the DRAT thereby restraining the respondent-bank from taking over the possession.

6. The prayer is opposed by Mr. Ghare, Counsel appearing for the respondent-bank in the light of law laid down by the Apex Court in the matter *PHR Invent Education Society Vs. UCO Bank and others* reported in 2024 SCC OnLine SC 528; so also the judgment in the matter of *CELIR LLP Vs. Bafna Motors (Mumbai) Private Limited and others* reported in (2024) 2 SCC 1.

7. We have considered the submissions.

8. We are sensitive to the observations made by the Apex Court in paragraphs 55 and 33 of the above referred two judgments wherein the Apex Court has directed the High Courts

to be sensitive while exercising the writ jurisdiction in the matter pertaining to the SARFAESI Act.

9. That being so, we are not inclined to show indulgence in the matter. The petition accordingly stands dismissed. However, we are not refraining the petitioners from taking recourse before the DRAT.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)