



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO. 4733 of 2024

Mr. Deepak s/o Manohar Kakani and others

vs.

State of Maharashtra and another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.S.Mohod, Advocate for petitioners.

Ms N. P. Mehta, Additional Government Pleader for respondent no.1

CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE :- 26th AUGUST, 2024.

Heard.

2. Drawing support from the judgment of the Apex Court in the matter of *PHR Invent Educational Society vs. UCO Bank and others* [(2024) 6 SCC 579], it is the contention of the learned counsel for the petitioner that the property in question is located within the jurisdiction of Civil Judge, Senior Division, Saoner and that being so, the Court of Civil Judge, Senior Division, Nagpur has no territorial jurisdiction to decide the issue. He would further claim that in the aforesaid decision the Apex Court in categorical terms provides remedy under Articles 226 and 227 of the Constitution when the powers are exercised without jurisdiction and in violation of the principles of natural justice.

3. As against above, Ms Mehta, learned Additional Government Pleader would oppose the prayer. According to her, not only the notices were issued to the petitioners but also published in the newspapers.

4. We have appreciated the submissions.

5. In our view, the petitioners have an alternate remedy under the provisions of Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Merely because the Civil Court at Nagpur has passed the impugned order that by itself cannot be said to be without jurisdiction particularly when the property is situated within the principal Civil Court of original jurisdiction. Even otherwise, the petitioners have failed to demonstrate any prejudice as regards passing of the impugned order by the Civil Judge, Senior Division, Nagpur.

6. That being so, we deem it appropriate to dispose of the writ petition with liberty to the petitioners to take recourse to the alternate remedy. No costs.

7. Needless to clarify that this Court has not gone into the merits of the matter.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.