

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

**WRIT PETITION NO. 6715 OF 2023**

Mahagaon Taluka Shetkari Sahakari Ginning and Pressing Factory, Mahagaon, through its President  
Vs.  
Debts Recovery Tribunal, Nagpur and another

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

Court's or Judge's orders

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Shri R.K. Thakkar, Advocate for petitioner  
Shri N.S. Deshpande, DSGI for respondent No.1

**CORAM : AVINASH G. GHAROTE AND**  
**SMT M.S. JAWALKAR, JJ.**

**DATE : 15.01.2024**

The petitioner in Securitization Application No. 151/2018, which challenge the action of the bank under Section 13 (2) and 13 (4) of the SARFAESI Act had in pursuance to the order dated 07/08/2018, deposited an amount of Rs.3,00,000/-, with the Registrar D.R.T. on 16/08/2018, which was a condition for not taking further action by the bank (page No.15). Securitization Application No. 151/2018 has been allowed by the judgment dated 22/03/2019, whereby, the notices under Section 13 (2) and 13 (4), same notice and same certificate, which were sought to be quashed and set aside has been allowed (page 18). In pursuance to this judgment the petitioner made an application to the Presiding Officer D.R.T. Nagpur vide M.A. No. 71/2019, seeking withdrawal of this amount of Rs.3,00,000/-, which has been rejected by the

order dated 31/08/2023 (pg 32), on the ground that the deposit was without any protest.

2. Though, Mr. Deshpande, learned Counsel for respondent submits that there is an alternate remedy available, however, considering the nature of the plea we do not deem it appropriate to direct the petitioner to go there as the matter can be disposed of finally on account of the admitted facts as prevailing in the present petition. Whether the amount of Rs.3,00,000/- was deposited with or without protest is not germane, what is germane, is that Securitization Application No. 151/2018 has been allowed by quashing the notices under Section 13(2) and 13(4) of the SARFAESI Act and the consequent actions thereto. In view of which, any amount deposited by the petitioner in those proceedings will have to be returned back to him. Consequently, the petition is allowed. The Registrar D.R.T. is directed to refund the aforesaid amount to the petitioner within a period of two weeks from today, with accrued interest, if any, as it is claimed that the amount was kept in an F.D.R. Petition is accordingly allowed in the above terms. No costs.

**JUDGE**

**JUDGE**