



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4842 OF 2025

- 1] M/s Ashtabhuj Construction
Office at Shivdatta Housing Society
Aurangabad through its Proprietor
Vikram Harischandra Deshmukh
- 2] Vikram Harsichandra Deshmukh
Age – 42 years, Occu. Business,
R/o. B-14, Hari Om Enclave
Beribagh Harsool, Aurangabad – 431 001 .. Petitioners

Versus

- 1) Authorized Officer,
Bank of Maharashtra
Office at Zonal Office
Mahabank Bhavan C-3,
N-1, Town Center CIDCO,
Aurangabad 431 003
- 2) The Branch Manager,
Bank of Maharashtra,
Office at Branch T.V. Center
Aurangabad 431 003 .. Respondents

...
Advocate for the petitioner : Mr. Arvind S. Deshmukhs
Advocate for respondents no. 1 and 2 : Mr. Aditya Sikchi h/f. Mr. V.R. Patil
...

**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 8 APRIL 2025

ORDER (MANGESH S. PATIL, J.) :

Heard.

2. The learned advocate for the petitioners submits that the petitioners are approaching this Court with a limited prayer seeking extension

of time laid down by the Debts Recovery Tribunal (**DRT**), Aurangabad in its order dated 07.04.2025 below IA Diary no. 888/2025, whereby the respondent financial institution was prevented from taking possession of petitioners' secured assets under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (**SARFAESI Act**), subject to the petitioners - borrowers depositing an amount of Rs.42,50,000/- by 09.04.2025. He would submit that the secured asset is the only residential house of the petitioners and they would be on the streets if reasonable time is not provided. They are ready to deposit Rs.20,00,000/- immediately and would need some breathing time to clear the balance.

3. Learned advocate Mr. Sikchi h/f. Mr. V.R. Patil for both the respondents, who appears *suo motu*, strongly opposes the request / petition. He submits that even the request for extension of time ought to have been made before the Debts Recovery Tribunal and it cannot be considered for the first time in exercise of the power under Article 226 of the Constitution of India.

4. Mr. Sikchi would further submit that even if the petitioners are aggrieved by the impugned order, a statutory appeal would lie before the Debts Recovery Appellate Tribunal (**DRAT**) and the petition is not maintainable even on that count.

5. Having heard both the sides and having perused the papers, it is apparent that possession has been sought to be taken in execution of the

order passed by the District Magistrate under section 14 of the SARFAESI Act. Having been threatened of the execution, the petitioners approached the Debts Recovery Tribunal and sought stay to the execution of that order. By the impugned order, stay has been granted, subject to deposit of an amount of Rs.42,50,000/- by 09.04.2025. The petition is filed on 08.04.2025 after the order was passed on 07.04.2025.

6. True it is that the petitioners are not seeking to challenge the order but are merely seeking its modification in the form of extension of the time. Therefore, it would not be a matter which could reach the DRAT, in a statutory appeal.

7. However, it is a matter of record that even the prayer for extension of time ought to have been made before the DRT itself. No such attempt has been made. Consequently, this Court in exercise of the extraordinary powers under Article 226 of the Constitution of India, cannot consider the request for the first time when there is nothing to demonstrate that the case involves facts justifying issuance of a writ of *mandamus*.

8. Irrespective of the harsh consequences, we are afraid, writ petition under Article 226 of the Constitution is not maintainable in the facts obtaining in the matter.

9. True it is that the petitioners may face some hardship, however, one need not deliberate and over-emphasize the fact that the provisions of the SARFAESI Act are meant to be stringent, enabling the financial

institutions / secured creditors to recover the debts. We cannot prevent such consequences in exercise of the powers under Article 226 of the Constitution.

10. The petition is dismissed in *limine*.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/