IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2111 OF 2025

Renu Dogra .. Petitioner
Vs.
Union of India & Ors. .. Respondents

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Mr. Subhash Jha with Mr. Samir Vaidya, Mr. Siddharth Jha, Mr. Sumeet Upadhyay, Ms. Apeksha Sharma, Ms. D. Rao & Ms. Saachi Bhiwandkar i/by Law Global, Advocates for the petitioner.
Mr. Nikhil Rajani with Mr. Dhruvam Gaikwad i/by M/s V. Deshpande & Co., Advocates for the respondent no.3.

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CORAM : A.S. CHANDURKAR &
M.M. SATHAYE, JJ

DATE : 25th FEBRUARY 2025.

P.C. :

1. Heard. The challenge raised in this writ petition is to the order dated 15/01/2025 passed by the learned Presiding Officer DRT-III Mumbai on Interim Application No.108 of 2025. By the said order, the learned Presiding Officer held that the petitioner had failed to make out a prima facie case for grant of any discretionary relief of injunction. However, it was directed that in case the petitioner deposited an amount of Rs. 1 Crore prior to dispossession, she should not be dispossesed. In addition, challenge is also sought to be raised to the validity of the proviso to Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002

(for short, 'Act of 2002') requiring pre-deposit of 50% of the amount of debt due subject to a minimum of 25% of such amount.

2. The learned counsel for the petitioner after referring to the notice issued under Section 13(2) of the Act of 2002 dated 29/07/2013 indicating an outstanding amount of Rs.58,35,680/- alongwith the acknowledgments on record submitted that the aforesaid notice under Section 13(2) though required to be mandatorily served on the noticee was never served on the petitioner. Attention was invited to the acknowledgments in that regard to indicate absence of proper service of the said notice. He also referred to the provisions of Section 17(4) of the Act of 2002 requiring the Debts Recovery Tribunal, (for short, 'DRT') to indicate satisfaction that the recourse taken by the secured creditor was in accordance with the Act of 2002. It was urged that though notice under Section 13(2) had been issued on 29/07/2013, the registration of the security interest was undertaken by the respondent no.2 only on 27/09/2019 with the Central Registry of Securitization Asset Reconstruction and Security Interest of India-CERSAI. Without considering these and other relevant aspects, the learned Presiding Officer wrongly held that no prima facie case was made out by the petitioner and

denied relief to her. By imposing onerous condition of deposit of an amount of Rs. 1 Crore, the grant of protection was made illusory. Placing reliance on the decisions in *J. Rajiv Subramaniyan and another Vs. Pandiyas and others,* (2014) 5 SCC 651, *Mathew Varghese Vs. M. Amritha Kumar and others,* (2014) 5 SCC 610, *State of U. P. Vs. Mohammad Nooh,* (1957) SCC Online SC 21 and *Ram and Shyam Company Vs. State of Haryana and others,* (1985) 3 SCC 267, it was urged that notwithstanding the availability of an alternate remedy of approaching the Debts Recovery Appellate Tribunal (for short, 'DRAT'), the writ petition be entertained and the petitioner be put back in possession of the secured assets.

3. The learned counsel for the respondent no.2 opposed the writ petition by submitting that to avoid the rigours of Section 18 (1) of the Act of 2002, the petitioner had approached this Court. Pursuant to the order dated 09/01/2025 passed in Writ Petition No.385 of 2025 preferred by the petitioner, possession of the secured asset was taken on 17/01/2025. Despite the liberty granted to approach the DRAT by the order dated 17/01/2025 passed in Interim Application No.738 of 2025 that was preferred in the disposed of writ petition, the petitioner was re-agitating

similar prayers. Another interim application seeking restoration of possession was pending before the DRT. In any event, the e-auction sale notice given on 07/02/2025 indicated that the auction sale was now scheduled on 13/03/2025 thus giving sufficient time to the petitioner to avail the alternate remedy. Hence the writ petition did not deserve to be entertained

4. Having heard the learned counsel for the parties and having perused the documents on record, we do not find any exceptional case made out to invoke extra ordinary jurisdiction especially in the light of the fact that the petitioner had approached this Court seeking protective relief by filing Writ Petition No.385 of 2025. By the order dated 09/01/2025, the steps for taking possession were deferred till 17/01/2025. Liberty was granted to approach the DRT in that regard. It was pursuant to the aforesaid liberty that the petitioner approached the DRT which passed an order on 15/01/2025 protecting the possession of the petitioner subject to deposit of an amount of Rs. 1 Crore. Since that amount was not deposited, possession of the secured asset was taken on 17/01/2025. The petitioner again approached this Court by filing Interim Application No.738 of 2025 in the writ petition that was disposed of. That Interim Application was not entertained on the

ground that an alternate remedy was available to the petitioner.

It is seen that the petitioner has lost possession of the secured asset on 17/01/2025. Against the order dated 15/01/2025 passed by the DRT, a statutory remedy is available to the petitioner. The contentions raised by the learned counsel for the petitioner would require factual adjudication especially the aspect of non-service of notice under Section 13(2) of the Act of 2002. The same can be raised by the petitioner while availing such alternate remedy. In that view of the matter, we do not find that there is any exceptional case made out or that any jurisdictional issue is involved warranting interference in exercise of extra ordinary jurisdiction.

5. In that view of the matter, we are not inclined to entertain the writ petition. It is accordingly disposed of as not entertained. It is clarified that all points on merits as well as the challenge to the validity of the proviso to Section 18 of the Act of 2002 are kept open for being raised by the petitioner in appropriate proceedings.

[M.M. SATHAYE, J.] **[A.S. CHANDURKAR, J.]**