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

905 WRIT PETITION NO.11164 OF 2022

ISHWARLAL SHANKARLAL LALWANI (JAIN)
VERSUS
THE UNION OF INDIA, THROUGH THE CHIEF
SECRETARY

....

Mr A. A. Yadkikar, Advocate for petitioner;
Mr A. G. Talhar, DSGI for respondent

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 17th November, 2022

PER COURT:

1. The petitioner has put forth prayer clauses (B) and (C),
which read as under :-

“B. This Hon’ble Court may kindly be pleased to pass an appropriate order/writ declaring that the impugned notification dated 4th October 2022 issued by the Respondent; bearing no.4719 (e) annexed at Exhibit A hereto is unconstitutional / illegal and quash and set aside the same;

C. During the pendency of this Writ Petition, the effect and operation of the impugned notification dated 4th October 2022 issued by the Respondent; bearing no. 4719 (e) may kindly be stayed;”

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2. Issue notice to the respondent. The learned DSGI waives service of notice on behalf of the respondent.

3. The petitioner prays for interim orders. It is contended that the matters pertaining to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act') and the Recovery of Debts and Bankruptcy Act 1993 (for short 'the RDB Act'), are within the jurisdiction of the Debts Recovery Tribunals established at various places in each State. For ready reference, he has provided a chart to indicate the Debts Recovery Tribunals affected by the impugned Notification dated 04/10/2022.

4. Contention is, that there are 4 Debts Recovery Tribunals in the State of Uttar Pradesh and 2 in State of Bihar, which are covered under one Debts Recovery Appellate Tribunal at Allahabad. Similarly, 3 Debts Recovery Tribunals at Chennai, 2 at Bengaluru, 1 at Coimbatore, 2 at Ernakulam and 1 at Madurai, are covered under the Debts Recovery Appellate Tribunal at Chennai. 3 Debts Recovery Tribunals are at Delhi, 3 at Chandigarh and 1 at Jaipur, which are covered by the Debts Recovery Appellate Tribunal Delhi. 3 Debts Recovery Tribunals

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at Kolkata, 2 at Hyderabad and 1 each at Visakhapatnam, Siliguri, Katak and Guwahati are covered under the Debts Recovery Appellate Tribunal, Kolkata. Similarly, 3 Debts Recovery Tribunals at Mumbai, 2 at Ahmedabad and 1 each at Aurangabad, Pune and Nagpur, are covered by the Debts Recovery Appellate Tribunal at Mumbai. The Debts Recovery Appellate Tribunal, Kolkata and the Debts Recovery Appellate Tribunal, Allahabad have been selectively kept outside the Notification dated 04/10/2022.

5. It is further contended that, all the matters amenable to the jurisdiction of the Debts Recovery Tribunals are further amenable to the Appellate jurisdiction of the Debts Recovery Appellate Tribunals. By the impugned Notification dated 04/10/2022, all matters valued above Rs.100 Crores and which were amenable to the jurisdiction of the various Debts Recovery Tribunals under the Debts Recovery Appellate Tribunal, Chennai, have been transferred to the Debts Recovery Tribunal-1, Chennai. Similarly, the Debts Recovery Tribunals amenable to the Debts Recovery Appellate Tribunal, Delhi have been subjected to the same Notification and matters valued above Rs.100 Crores have been shifted from all Debts Recovery Tribunals to the Debts Recovery

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Tribunal-1, Delhi. Same is applicable to the Debts Recovery Appellate Tribunal, Mumbai jurisdiction and the matters above Rs.100 Crores are directed to be transferred from the Debts Recovery Tribunals to the Debts Recovery Tribunal-1, Mumbai. It is, thus, canvassed that, if the notification dated 04/10/2022 is made applicable to the RDB Act, it would also be made applicable to the SARFAESI Act and the very purpose of establishing the Debts Recovery Tribunals at various locations in each State, would be defeated. The Debts Recovery Appellate Tribunal is considered to be an appellate jurisdiction and depending upon the territorial jurisdiction, demarcated areas have been subjected to the jurisdiction of the different Debts Recovery Tribunals.

6. Prima facie, it appears from the record that, the Debts Recovery Tribunals established at various locations, would now be divested of their jurisdiction, on the ground of pecuniary limitation created by a Notification, without any amendment to the RDB Act. This appears to be unsustainable. We are also conscious that, if the matters are transferred from various Debts Recovery Tribunals to a particular Debts Recovery Tribunal as per the impugned Notification, and subsequently, if the Notification is held to be unsustainable, all the transferred matters, which could

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be in several thousands, will have to be transferred back to the Debts Recovery Tribunals, which originally had the jurisdiction. It is in these circumstances, that we are staying the Notification dated 04/10/2022.

7. Considering the seriousness of the issue and the urgency involved, we expect the respondent to enter it's affidavit at least 10 days prior to the returnable date and be ready on the returnable date for a final hearing at admission stage.

8. The learned DSGI prays for eight weeks, and hence, the returnable date is set at 04/01/2023. Affidavits-in-reply be filed, 15 days prior to the returnable date.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

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