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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 835 OF 2015

M/s. Crystal Mirage Ltd. & Anr. ... Petitioners
Vs.
Bank of India ... Respondent

Mr. Vivek Phadke a/w Manish Gitay, for the Petitioners.

Mr. P. J. Rony, for the Respondent.

CORAM : V. M. KANADE, &
REVATI MOHITE DERE, JJ.

DATE : JANUARY 28, 2015

PC.

1. Heard the learned counsel appearing on behalf of the Petitioners and the learned counsel appearing on behalf of the Respondent-Bank. Petitioner is aggrieved by an order passed by the learned Chief Metropolitan Magistrate, Esplanade, Mumbai, under Section 14 of the SARFAESI Act, 2002 for taking possession of their properties, situated in Mumbai. It is submitted that after the order was passed, Petitioner filed an application on 21.1.2015 for recalling the order dated 16.12.2014. Said application was not accepted. Being aggrieved by the said order, Petitioners have approached this Court by

filing this petition.

2. Learned counsel appearing on behalf of the Respondent – Bank submitted that Petitioners are not the owner of the properties, and in fact four properties were mortgaged since two properties were added. After taking possession of the properties, owners of the suit properties have raised the dispute. It is submitted that Petitioner therefore had fraudulently created mortgage in respect of those properties. It is submitted that Petitioners have an alternate remedy of approaching the DRT under Section 17 of the Act, if possession is taken. Under these circumstances, we are not inclined to interfere with the impugned order passed by the learned Chief Metropolitan Magistrate, Esplanade, Mumbai. Writ petition is therefore dismissed, reserving right of the Petitioners to file an appeal under Section 17 of the SARFAESI Act, 2002. Interim order is vacated.

[REVATI MOHITE DERE, J.]

[V. M. KANADE, J.]