

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.14 OF 2015
IN
WRIT PETITION NO.756 OF 2015
WITH
CIVIL APPLICATION NO.387 OF 2015

M/s. Printek Graphix (India) Pvt. Ltd.	..Petitioner
<u>IN THE MATTER BETWEEN :</u>	
M/s. Printek Graphix (India) Pvt. Ltd.	..Petitioner
Versus	
District Magistrate, Thane & Anr.	..Respondents

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Mr. Partha Sarathy Sarkar, for the Petitioner.
Mr. Rajeev Panday a/w. Mr. Arun Shilwant i/b. PRS Legal, for
Respondent No.2.
Mr. A.I. Patel, AGP, for Respondent No.1.

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CORAM : V. M. KANADE, &
A.R. JOSHI, JJ.

DATE : FEBRUARY 20, 2015

P.C.

1. Heard learned Counsel for the parties.
2. The petitioner has filed this Review Petition seeking review of the order passed by this Court dated 30th January, 2015.

3. The petitioner had filed Writ Petition No.756 of 2015 challenging the order passed by the District Magistrate under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “SARFAESI Act” for the sake of brevity). It was contended that the application under Section 14 of the SARFAESI Act was filed by the Bank. However, it was not duly affirmed as required under first proviso to Section 14 of the SARFAESI Act.

4. By our order dated 30th January, 2015 we were pleased to allow the Writ Petition and set aside the order passed by the District Magistrate and we remanded the matter back in order to enable the bank to cure the defect by filing an application accompanied by the duly affirmed affidavit of the authorized officer. All the contentions raised by the petitioner in the said Petition were considered and the matter was remanded back to the District Magistrate.

5. It is now submitted that the Haryana Board of School Education owes some money to the petitioner and, therefore,

permission may be granted to add Haryana Board of School Education as a party respondent. It is then submitted that since the District Magistrate has become *functus officio* it is not open for him to hear the case again. Learned Counsel for the petitioner has also placed reliance on several judgments of this Court as well as the Apex Court in support of the said submissions.

6. We are unable to accept the said submissions. In our view, the ratios laid down in the judgments relied upon by the petitioner do not apply to the present case. We have by our reasoned order, allowed the Petition filed by the petitioner and we have remanded the matter back to the District Magistrate. If the petitioner is aggrieved by the said order, his remedy is to file a SLP in the Apex Court. In our view, therefore, the Review Petition is not maintainable.

7. Learned Counsel for the petitioner submitted that the petitioner is negotiating with the bank for the purpose of repaying the said amount which is due and payable to the bank. In our view, the petitioner can continue to negotiate with the bank and since he

has already filed an application before the DRT, he can give said proposal to the DRT. If such proposal is given, the DRT may consider it in accordance with law. Review Petition is accordingly disposed of. Civil Application also stands disposed of.

(A. R. JOSHI, J.)

(V.M. KANADE,J.)

Deshmane, (P.S.)