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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (St.) No. 9142 OF 2015

M/s. Mahesh Trading Co. & Ors. ... Petitioners
Vs.
Oriental Bank of Commerce & Ors. ... Respondents

WITH
WRIT PETITION (St.) No. 8823 OF 2015

M/s. Shree Krishna Milk &
Allied Products & Ors. ... Petitioners
Vs.
Oriental Bank of Commerce & Ors. ... Respondents

Mr. Sachin R. Pawar, for the Petitioners.

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

DATE : APRIL 8, 2015

PC.

1. Writ Petition (St.) No. 8823/2015 is not on board. Upon mentioning, said petition is taken on board and heard alongwith Writ Petition (St.) No. 9142/2015.

2. Heard the learned counsel appearing on behalf of the Petitioners in both the petitions. Petitioners are aggrieved by an order passed by the District Magistrate, Alibag dated 7.7.2014. By the said order, the District Magistrate has directed the Bank to take possession

of the secured assets / mortgaged property.

3. Learned counsel appearing on behalf of the Petitioners submitted that notice under Section 13(2) of the SARFAESI Act was not served on the Petitioners, and therefore, Respondent – Bank cannot take possession of the secured assets. Perusal of the impugned order indicates that the said notice was issued on 17.12.2012 and it was duly served on the Petitioners, and thereafter the Petitioners did not repay the outstanding dues togetherwith interest. It is well settled position in law that the borrower has no locus to be intervened or to be heard before the Magistrate before passing order under Section 14 of the Act; and secondly, he has a remedy of filing an appeal under Section 17 of the Act and if the DRT finds that measure supposed to be taken is not in accordance with law, possession can be restored and compensation can be awarded to the Petitioners. We are, therefore, not inclined to entertain both the petitions. Hence, both the writ petition are dismissed.

Sd/-
[A. R. JOSHI, J.]

Sd/-
[V. M. KANADE, J.]

Vinayak Halemath