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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 4088 OF 2015

M/s. Printek Graphix (India) Pvt. Ltd. & Anr.Petitioners
Vs.
District Magistrate Thane and Anr.Respondents

Mr. P.S. Sarkar for Petitioners
Mr. Pramod N. Tambe i/b. Mr.Vishal C. Ghosalkar for Respondent No.2

CORAM : V. M. KANADE &
M.S.SONAK, J.J.

DATE : APRIL 21, 2015

P.C. :

1. Heard the learned counsel appearing on behalf of the Petitioners and the learned counsel appearing on behalf of Respondent No.2

2. The Petitioners are aggrieved by an order passed by the District Magistrate, Thane dated 27.2.2015. It is submitted that the directions given by this Court have not been complied with by the District Magistrate, Thane. The Petitioners had initially filed a writ petition, challenging the decision taken by the District Magistrate on the ground that there was a non-compliance of section 14 of the SARFAESI Act by the Bank. It is submitted that the affidavit, which

was duly affirmed by the responsible officer, was not submitted before the District Magistrate and, therefore, the said order is required to be quashed and set aside.

3. In the earlier writ petition which was filed before this Court, by the order dated 30th January, 2015, the matter was remanded back to the District Magistrate with a direction to the Bank to cure the defect and file an affidavit duly affirmed by the authorized officer of the Bank. We had also further directed the Learned District Magistrate to pass a fresh order after giving hearing to the Petitioners.

4. It is submitted that the District Magistrate has set aside his earlier order by his order dated 27.2.2015. It is submitted that the said action of the District Magistrate firstly, is contrary to the directions given by this Court and secondly, since Respondent No.1 after becoming *Functus Officio*, could not have passed the said order. It is also submitted that in the report which was submitted to the District Magistrate, the Police Sub-Inspector of Worli has mentioned that the company has suffered financial loss and after the bank guarantee was invoked and encashed, the account of the Petitioners was declared as NPA.

5. The submissions made by the learned counsel for the Petitioners cannot be accepted since after hearing the submissions of the learned counsel for the Petitioners we had given the said direction and also considered the submission that the District Magistrate had become *Functus Officio*, but we had rejected the said contention. We are afraid that while exercising our writ jurisdiction under Article 226 of the Constitution of India, we are not inclined to entertain this Petition since

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the Petitioners have an alternate remedy of filing an appeal under section 17 of the SARFAESI Act before the DRT. Hence, writ petition is dismissed. Request made by the learned counsel for the Petitioners to give eight weeks' time to the Petitioners in order to enable them to file SLP, is declined.

[M.S. SONAK, J.]

[V. M. KANADE, J.]