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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 5612 OF 2015

Sanjivkumar Surajprakash Aggarwal ... Petitioner
Vs.
State Bank of India & Ors. ... Respondents

Mr. Mayur Khandeparkar a/w Ms. Shreya Deshpande i/b Manish
Gitay, for the Petitioner.

Mr. Vivek Sawant, for the Respondent.

CORAM : V. M. KANADE, &
B. P. COLABAWALLA, JJ.

DATE : JUNE 25, 2015

PC.

1. Heard the learned counsel appearing on behalf of the Petitioner and the learned counsel appearing on behalf of the Respondents. Petitioner is aggrieved by an order passed by the Chief Metropolitan Magistrate, who by his order refused to entertain the application for intervention, filed by a tenant and dismissed it in *limine*. It is submitted that Petitioner is a tenant and the rent court has passed a decree declaring him to be a tenant in 2014. It is submitted that in view of Section 33 Maharashtra Act, the Petitioner being declared as a tenant by the competent authority, is entitled to get a hearing. It is submitted that the observations made by the Apex Court

in paragraph 36 of the judgment in the case of – *Harshad Govardhan Sondagar, Appellant Vs. International Assets Reconstruction Company Ltd. & Ors. [(2014) 6 Supreme Court Cases 1]* are only restricted to a case where lessee does not produce proof of registered instrument in his favour. It is submitted that the said judgment does not consider a case where rent court has passed a decree in favour of the appellant.

2. In our view, this submission is without any substance. The Apex Court in the said judgment in paragraph 35 has in terms considered this aspect and has observed that court or any authority mentioned in Section 33 of the Maharashtra Rent Control Act cannot grant injunction to prevent such action by the secured creditor or by the Chief Metropolitan Magistrate or the District Magistrate.

3. In this view of the matter, we are unable to accept the submissions made by the learned counsel appearing on behalf of the Petitioner. Writ petition is, therefore, disposed of, reserving the right of the Petitioner to file an appeal under Section 17 of the SARFAESI Act.

Sd/-
[B. P. COLABAWALLA, J.]

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