IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9088 OF 2014

M/s. Aakar Sales Corporation
and others. ..Petitioners
Versus
ING Vysya Bank Ltd.
and others. ..Respondents
....

None for the Petitioners.
Mr. Prashant Shinde i/b. Anant Shinde, Advocate for Respondent No.1.
Later on :
Mr. Mangesh Patel, Advocate for the Petitioners.
....

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

DATE : MARCH 12, 2015

P.C.

1. None appears on behalf of the petitioners. The petitioners by this Petition under Article 226 of the Constitution of India are challenging the order passed by the District Magistrate, Vasai which was passed by the said Magistrate while exercising powers vested in him under Section 14 of the Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act"). The Apex Court in the case of ***United Bank of India vs. Satyawati Tondon and Ors.*** reported in ***AIR (2010) SC 3413*** has held that against the order passed by the Magistrate under Section 14 of the SARFAESI Act, the borrower has a right to file an appeal under Section 17 of the SARFAESI Act. The Apex Court has further observed that the Writ Petition against such an order should not be entertained by the High Court while exercising its writ jurisdiction under Article 226 of the Constitution of India. We are, therefore, not inclined to entertain this Petition since the petitioner has an alternate efficacious remedy of filing an appeal under Section 17 of the SARFAESI Act.

2. Writ Petition is disposed of accordingly.

3. At this stage, learned Counsel appearing on behalf of the petitioners seeks stay on possession for a period of four weeks. The Petition is pending since September, 2014. The possession has not been taken by the Bank so far. Hence, we are not inclined to grant

stay as prayed by the petitioners by reserving their rights to file an application before the DRT. The other grievance of the petitioners is that the copies of the notice issued under Section 13(2) and other documents are not served on the petitioners. It is however disputed by the learned Counsel appearing on behalf of the Bank. The bank, however, may give additional set of documents if claimed by the petitioners.

(A. R. JOSHI, J.) (V.M. KANADE,J.)

Deshmane, (P.S.)