

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (LODGING) NO.234 OF 2015**

Megahertz Systems Pvt. Ltd.

..... Petitioner.

V/s

Board of Directors DCB Bank
and Others

..... Respondents.

Mr. Ghanshyam Upadhyay i/b S.F. Sothe for the Petitioner.
Mr. Ashish Kamat alongwith Mr. Nikhil Rajani i/b V.
Deshpande & Co. for Respondents.

**CORAM: V. M. KANADE &
REVATI MOHITE DERE, JJ.**

DATE: 13th February, 2015

P.C.:-

1. Petitioner is aggrieved by the order passed by the Chief Metropolitan Magistrate dated 29/9/2014 under section 14 of the SARFAESI Act thereby allowing the Bank to take possession of the property mortgaged by the borrower.
2. It is an admitted position that the Petitioner is not the owner of the property, possession of which is sought to be taken but the property belongs to the borrower.
3. It is submitted that there is non-compliance of provisions of section 13(2) and 13(4) of the SARFAESI Act.

4. On the other hand, the learned Counsel appearing on behalf of the Bank has submitted that the Petitioner has no locus to challenge the said order since he is not the owner of the property. It is further submitted that the submission of the Petitioner that no reply was given to the objections raised by the Petitioner is factually incorrect. He has relied upon the reply given by the Bank's Advocate dated 15/6/2013 which was received by the Petitioner's Advocate.

5. It is not in dispute that the Petitioner is not the owner of the property but the property is owned by the guarantors. Petitioner, therefore, has no locus to intervene in the application which is filed under section 14 of the SARFAESI Act before the Chief Metropolitan Magistrate. Secondly, copy of the reply which has been produced by the Respondent-Bank dated 15/06/2013 clearly reveals that the Bank has given reply to the Petitioner's Advocate and, therefore, there is proper compliance of section 13(2) and 13(4) of the SARFAESI Act. Petitioner has an alternative remedy of filing an appeal under section 17. Reserving the said right of the Petitioner, Petition is dismissed.

(REVATI MOHITE DERE, J.)

(V.M. KANADE, J.)