

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1389 OF 2015

Sumit Woods Pvt. Ltd.	}	Petitioner
versus		
The State of Maharashtra	}	
and Ors.	}	Respondents

Mr. Ghanshyam Upadhyay i/b. M/s. Law
and Juris for the petitioner.

Ms. Aparna Vhatkar – AGP for respondent
no. 1.

Mr. Pankaj Vijayan i/b. M/s. Intra Legal
for respondent no. 2.

Mr. P. Kumar N. Jain for respondent nos.
3 and 6.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATED :- OCTOBER 21, 2016

P.C. :-

1. After having heard both sides and perusing the writ petition and all annexures thereto, we are of the view that the writ petition involves disputed questions of fact. Whether the petitioner acted *bonafide* and therefore, was unaware of any of the dealings and transactions between the borrower and the bank or whether the bank and the borrower colluded with each other in depriving the petitioner of his right, title and interest are all

matters which cannot be decided in our limited jurisdiction. The petitioner is protected by an ad-interim order of this court dated 10th February, 2015, which has been continuing till date. Once the petitioner has an alternate and equally efficacious remedy of approaching the DRT under section 17 of the SARFAESI Act, then, we need not keep this petition pending.

2. Granting liberty to move the tribunal and invoke jurisdiction under section 17 of the SARFAESI Act or any other appropriate forum, we dispose of this writ petition. We clarify that we have expressed no opinion on the rival contentions. To facilitate and enable the petitioner to move the alternate forum, we continue the ad-interim order, which has been in force till date, for a period of six weeks from today. It shall not continue thereafter.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)