

BDPPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5687 OF 2015**

Mrs Smita Subhaschandra Mahajan Petitioner.

V/s

The Authorised Officer,
The Saraswat Co-op Bank Ltd
and Another.Respondents.

Mr. Vinod Ghosalkar i/b Mr. Pramod N. Tambe for the Petitioner.
Mr. Harshad Bhadbhade for Respondent No.1.

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

DATE: 21st April, 2016

P.C.:- (Per V.M. Kanade, J.)

1. There was some confusion regarding status of this matter and the matter was shown to be pending according to the case status in the CMIS system. In our view, the matter was already dismissed by this Bench on 14/03/2016. However, for some reason, dismissal of this Petition was not mentioned in the Farad Sheet. Be that as it may, both the parties agree that the Petition was dismissed on 14/03/2016.

2. Petitioner, by this Petition, is seeking a declaration that the proceeding initiated by Respondent No.2 under the SARFAESI Act,

2002 by notice dated 15/01/2005 which was issued under Section 13(2) and further notice dated 14/06/2005 issued under Section 13(4) against the Petitioner is illegal.

3. In our view, Petitioner has an alternate efficacious remedy of filing an appeal under Section 17 of the SARFAESI Act and therefore this Petition is not maintainable. The Apex Court in *United Bank of India vs. Satyawati Tondon and Ors*¹ has already observed that the High Court should not interfere with issuance of notice under sections 13(2) and 13(4) of the SARFAESI Act while exercising its writ jurisdiction under Article 226 of the Constitution of India.

4. Petition is therefore dismissed, reserving right of the Petitioner to file an appeal under Section 17 or take such other steps as are available to her in law.

5. Petition is accordingly disposed of.

(B.P. COLABAWALLA, J.)

(V.M. KANADE, J.)

¹ 2010(8) SCC 110