

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION (STAMP) NO. 31024 OF 2016**

Shethia Industries

....Petitioner

Vs.

Shantilal B. Shah & Ors.

....Respondents.

Mr. Q.M. Ashfaq a/w Mr. Arvind Toral for the Petitioner.

Mr. Rohit Gupta a/w Vivek S. Sawant for Respondent No.2.

Mr. Sandeep S. Dhuri for Respondent No.1.

**CORAM : ANOOP V. MOHTA AND
A.S. GADKARI, JJ.****DATE : 5 DECEMBER 2016.****ORDER:-**

Rule. Rule made returnable forthwith.

Heard finally, by consent of the parties.

2 We are inclined to dispose of the present Writ Petition, as the Petitioner claiming to be a tenant of premises which is subject matter of Notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI, Act), initiated by Respondent No.2-

Bank, as there was default made by the original Owner/Borrower of the property.

3 The Petitioner, therefore, in view of the amendment to Section 17(4-A)(i) of the SARFAESI Act, is entitled to invoke the provisions for appropriate reliefs/orders. The alternate remedy, therefore so available, is itself sufficient to dispose of this Writ Petition. We have not observing anything on merits of the matter. The Authorities will deal with the same, in accordance with law at the earliest.

4 However, at this stage, to avoid further complications and to give one more opportunity to the Petitioner in view of the amended provisions so recorded above, we are inclined to observe that no coercive steps be taken against the Petitioner for three weeks from today. The learned counsel appearing for Respondent No.2-Bank makes statement that they will not take any coercive steps for three weeks, based upon impugned notice under Section 14 of the SARFAESI Act. The liberty is granted to the Petitioner to file application/invoke appropriate remedy within three weeks from

today. The concerned Authority to pass order on its own merits on the application, as well as, on the interim protection/stay, if any, as against the claim of the Petitioner's property in question, uninfluenced by the order passed by this Court.

5 Writ Petition is disposed of. Rule disposed of accordingly.
There shall be no order as to costs.

(A.S. GADKARI, J.)

(ANOOP V. MOHTA, J.)