

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13503 OF 2016

Samriddhi Banquets Pvt. Ltd. And ors. Petitioners

vs

The Bharat Cooperative Bank
(Mumbai) Ltd.

.... Respondent

Mr. Girish M. Joshi for the petitioners.

Mr. Prashant Naik with Mr. Sandeep Waghmare I/by Seema K. Chopda
for respondent.**CORAM: ANOOP V. MOHTA AND
A. S. GADKARI, JJ.****DATE : December 07, 2016****ORDER:**

Heard the learned counsel appearing for the parties finally.

2 On hearing the Petitioner and considering the provisions of the The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, SARFAESI Act), including amended provisions apart from the judgment of Supreme

Court in *Kanaiyalal Lalchand Sachdev and ors vs. State of Maharashtra and ors.*,¹, no case is made out to interfere with the order passed by the Chief Metropolitan Magistrate, Esplanade, Mumbai dated 7.10.2016, whereby the Respondent-Bank's Application under Section 14 of SARFAESI Act has been considered as found to be in order and appointed the Commissioner to take physical possession of the secured assets of the property in question. The submission that Bank is going to take possession by tomorrow i.e. 8.12.16 and, therefore, this Court to pass some protective order is not acceptable in the facts and circumstances of the case basically when apart from the order so referred above, which always arise out of the demand notice under Section 13(2) OF SARFAESI Act which followed by various procedure including filing objection at appropriate time and the Appeal and/or Application before Debts Recovery Tribunal, if aggrieved by any order and/or action including such action in question.

3 This Court has already observed referring to the Supreme Court judgment that such writ petition against orders of this nature, without invoking the statutory remedy, should not be entertained as it

1 (2011) 2 SCC 782

frustrates the whole purpose and object of the SARFAESI Act itself. This is not an exceptional case and/or circumstance which require to entertain the present petition filed by the Petitioner at this stage of the proceedings knowing fully the effect and result in non-compliance of the demand notice and raising appropriate objection and/or challenge to the proceedings including the challenge to the impugned order in question.

4 Taking overall view of the matter, no case is made out to entertain the writ petition. The writ petition is dismissed.

5 No costs.

(A. S. GADKARI, J.)

(ANOOP V. MOHTA, J.)