

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION {L} NO.862 OF 2016

Shalimar Exhibitors & Anr.

.... Petitioners

Vs.

The Senior Inspector of Police,
D.B. Marg Police Station & Anr.

.... Respondents

Mr. Mathews Nedumpara with Ms Rohini V. Sorte
for the Petitioners.

Mr. A.R. Bamne i/by M/s. A.R. Bamne & Company
for Respondent Nos.3 and 4.

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

DATE : OCTOBER 13, 2016

P.C:

1. This writ petition was adjourned on several occasions. The petition was produced before us on 22-3-2016 and we listed it on 6-4-2016. Thereafter, it has been appearing under the caption, for admission. Mr. Nedumpara was accommodated by us on more than one occasion. The papers were produced urging that there is some urgency. The writ petition was listed on 29-9-2016 by clarifying that there is no

urgency and there is no protection against dispossession.

2. Thereafter as well it has appeared on board on several occasions.

3. The petitioner, who is the mortgagor, having mortgaged an immoveable property so as to secure the credit facilities obtained by the firm, has made several attempts to resist the action and as has been disclosed in the affidavit filed in reply to this writ petition. The series of orders passed by this Court, copies of which have been duly annexed to the affidavit in reply of respondent Nos.3 and 4 demonstrates as to how repeated attempts have been made to defeat and frustrate the measures adopted under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act") by respondent No.4-Bank. The Bank has legitimately proceeded and it has been conferred with the powers to so proceed. Once we find and on account of the events set out in the affidavit in reply that this writ petition is a gross abuse of the process of the Court, we have no

hesitation in dismissing it. It is accordingly dismissed. Even the issue of constitutional validity in terms of prayer clause (c) of the writ petition would not survive in the light of the authoritative pronouncement by the Hon'ble Supreme Court of India in the case of **Mardia Chemicals Ltd. Vs. Union of India**, reported in AIR 2004 SC 2371 = (2004) 4 SCC 311 and following it a Division Bench Judgment of this Court.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)