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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 476 OF 2016

Mr. Bhawani Shankar H. Sharma ..Petitioner

Vs.

Indian Oversea Bank & Ors. ..Respondents

Mr. M. Nedumpara i/b R.R. Nair for Petitioner.
Ms. Sapana R. i/b T.N. Tripathi & Co for Respondent No.1.

CORAM: ANOOP V. MOHTA AND
A.S. GADKARI, JJ.

DATE: 19 DECEMBER 2016

ORDER:

1 The Petitioner has challenged the action of the Respondent-Bank of initiation and issuance of a Notice dated 29 December 2014 under Section 13(2) and (4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act). The scheme and purpose of the act has been recognized by various Supreme Court Judgments. The Petiton is pending since 30 November 2015.

2 In the petition the Petitioner has made various prayers. There is no possession taken and/or ordered to be given by the concerned Magistrate under the SARFAESI Act. The alternate remedy is available to the Petitioner by invoking and/or by raising the challenge after receipt of such Notice under Section 13(2) and (4). Admittedly no such steps is taken by the Petitioner.

3 In view of the remedy so available under the SARFAESI Act to the Petitioner, we are declined to entertain the present petition at this stage. We therefore grant a liberty to the Petitioner to take out an appropriate original application in accordance with law. The concerned Debt Recovery Tribunal to pass orders including protection, if any, as prayed for by the Petitioner, in accordance with law. The pendency of such petition frustrate the scheme of the SARFAESI Act.

4 Writ Petition is accordingly disposed of with liberty. All contentions are kept open. No costs.

(A.S. GADKARI,J.) **(ANOOP V. MOHTA, J.)**