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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 459 OF 2017

M/s Shree Sharda Industries Pvt. Ltd.

..Petitioner.

Vs.

The State of Maharashtra .

..Respondent

Mr. Upadhyay i/b Law Juris for Petitioner.

Mr. M.C. Walimbe, AGP for State.

**CORAM: R.M. BORDE AND
A.S. GADKARI, JJ.**

DATE: 30 JANUARY 2017.

P.C.:

1] The petitioner is objecting to the Order passed by the Chief Metropolitan Magistrate, Esplanade, Mumbai dated 3 January 2017 rejecting the application tendered by the petitioner on 2 January 2017 for recalling of Order dated 30 December 2013 passed in CC No.7/SA/2013 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). By Order dated 30 December 2013, this Court was pleased to appoint Assistant Registrar to take possession of the secured assets. It appears that

the petitioner herein representing M/s Shree Sharda Industries Pvt. Ltd. was the party to the proceedings in which the Chief Metropolitan Magistrate passed an order under Section 14 of the SARFAESI Act. The said Order was subject matter of challenge in Writ Petition No.1242 of 2015. The said writ petition came to be disposed of with liberty to the petitioner to avail alternate remedy available in law. Instead of availing alternate remedy, the petitioner approached Chief Metropolitan Magistrate seeking recall of Order. However, the Chief Metropolitan Magistrate refused to entertain the application filed by the petitioner, holding that the petitioner failed to point out any provision empowering Chief Metropolitan Magistrate to recall or review the order passed by him earlier.

2] In view of the above, since there is remedy available in law for the petitioner under Section 17 of the SARFAESI Act for redressal of his grievance for which leave was already granted by this Court while disposing of Writ Petition No.1242 of 2015, the Order passed by the learned Chief Metropolitan Magistrate does not call for interference in exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India.

The writ petition being devoid of merits is accordingly

dismissed.

3] The learned counsel for the petitioner seeks extension of protection granted in his favour by Order dated 19 December 2016 passed by this Court for availing remedy available in law. Since instead of availing alternate remedy as provided under Section 17 of SARFAESI Act, the petitioner adopted wrong remedy, we extend interim protection granted in pursuant to the Order dated 19 December 2016 in Writ Petition No.1242 of 2015 by further period of two weeks.

(A.S. GADKARI,J.)

(R.M. BORDE, J.)