

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.795 OF 2017**

M/s. Guru Aashish Texfab Ltd. .Petitioners  
& ors.

Vs.

The State of Maharashtra & anr. .Respondents

Mr.Akshay Patil a/w. Mr.Vinod Kothari i/b. M/S.  
APEX LAW PARTNERS, Advocate, for the Petitioners

Mr.P. Chandran i/b. Ms Shraddha Khandadia,  
Advocate, for the Respondent No.2

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

**DATE : 23.01.2017**

**P.C.**

. The Petitioner is objecting to the steps taken by the Respondent – Bank under Section 14 of the SARFAESI Act. The Respondent – Bank approached to the learned Chief Metropolitan Magistrate for enforcing the possession of the secured assets. The Application tendered by the Respondent – Bank was considered favourably and for execution of

the said order, the learned Chief Metropolitan Magistrate appointed an Advocate to take physical possession of the secured assets. The learned Chief Metropolitan Magistrate has directed to take physical possession of the property and in execution of the said order now the possession of the property has been taken. The Petitioner contends that the procedure which has been adopted by the learned Chief Metropolitan Magistrate for taking over possession of the property is questionable and legal objection which is raised by the Petitioner needs to be gone into. It is not disputed that the possession of the property has already been taken over. At the stage of admission on earlier occasion, the Petitioner was directed to show his bonafides by making deposit of at least 25% of the amount due towards Bank. Today also, when called upon by this Court, the Petitioner has expressed his inability to deposit any amount. Thus, it

appears that the Petitioner is unwilling to pay the dues recoverable by the Bank. In this view of the matter, the discretionary powers vested in this Court under Article 226 of the Constitution of India need not be exercised in favour of the Petitioner.

2. The Writ Petition being devoid of merits, stands rejected.

**(A.S.GADKARI, J.)**

**(R.M.BORDE, J.)**