

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.1011 OF 2016
WITH
CIVIL APPLICATION NO.3403 OF 2017**

M/s. Gunai Shikshan Prasarak
Mandal and ors. ..Petitioners

Vs.

The State of Maharashtra
and ors. ..Respondents

Mr.A.N.Sabnis, Advocate for petitioners
Mr.V.S.Badakh, AGP for respondent nos.1 to 3
Mr.S.S.Deve, Advocate for respondent no.4

**AND
CIVIL APPLICATION NO.11945 OF 2018
IN
WRIT PETITION NO.1011 OF 2016**

M/s. Gunai Shikshan Prasarak
Mandal and ors. ..Applicants

Vs.

The State of Maharashtra
and ors. ..Respondents

Mr.A.N.Sabnis, Advocate for petitioners in W.P.
Mr.V.S.Badakh, AGP for respondent nos.1 to 3
Mr.S.S.Deve, Advocate for Bank

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.
DATE : NOVEMBER 19, 2018**

PER COURT

The petitioners assail the proceedings under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act", for short).

2. We have heard Mr.Sabnis, learned Counsel for the petitioners and Mr.Deve, learned Counsel for respondent no.4 – Bank.

3. It is submitted that during pendency of this Writ Petition, order has been passed by the District Magistrate under Section 14 of SARFAESI Act on 16.02.2017.

4. Mr.Deve, learned Counsel for respondent no.4 – Bank submits that the petitioners have alternate remedy under SARFAESI Act before another forum.

5. Mr.Sabnis, learned Counsel for the petitioners, sought to submit that though the respondent – Bank, in its earlier petition bearing Writ Petition No.6318 of 2015, has made an erroneous statement that no proceedings are pending, the respondent – Bank had initiated proceedings before the Arbitrator under the provisions of Multi-State Co-operative Societies Act and award is passed by the Arbitrator. The petitioners had filed an application under Section 34 of the Arbitration and Conciliation Act and that application came to be dismissed. The petitioners, thereafter, filed an appeal before this Court under Section 37 of the Arbitration and Conciliation Act.

6. We may not enter into the debate as it is stated that the petitioners has a remedy under SARFAESI Act to assail the order under Section 14 of the SURFESSI Act before appropriate forum.

7. We dispose of the Writ Petition with liberty

to the petitioners to avail of the alternate remedy. If the proceedings are filed within three weeks from today, the question of limitation would not arise, as the order is passed during the pendency of this Writ Petition.

8. The interim protection granted by this Court shall continue for three weeks from today. Needless to state that after lapse of three weeks, the protection granted by this Court would come to and end.

9. In view of disposal of the Writ Petition, Civil Applications do not survive and stand disposed of.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]