

Rane

* 1/3 * WP(ST)-4752-2018 (SR.904)
Thursday, 15.2.2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 4752 OF 2018

M/s. BansalParivahan India Pvt.
Ltd. and Ors.

....Petitioners

V/s.

Janakalyan Sahakari Bank Ltd.,
AND

....Applicant

Mr. Rajesh Dabholkar, Advocate

...Court Commissioner/
Respondent

* * * * *

Mr. R.V. Sipahimalani, Advocate for the petitioners.

CORAM :-

R.M.SAVANT, &

SANDEEP K. SHINDE, JJ.

DATE :-

15TH FEBRUARY, 2018.

P.C. :-

1. The writ jurisdiction of this Court is invoked for seeking a direction against the Learned Chief Metropolitan Magistrate directing him to hear Misc. Application No. 361 of 2018 on merits. The further relief sought by the petitioners, is for taking appropriate action against the respondent, Bank

after perusing the records and proceedings of C.C. No. 396/SA/2016. In so far as, Misc. Application No. 361 of 2018 is concerned, the same has not been entertained by the Learned Additional Chief Metropolitan Magistrate on the ground that the petitioner has a remedy under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (for short "the Sarfesi Act) Act, 2002.

2. In so far as the second relief is concerned, the relief is based on the order dated 9th March, 2017 passed by the Learned Additional Chief Metropolitan Magistrate under Section 13(4) of the Sarfesi Act thereby directing the Court Commissioner appointed by him, to take possession of the secured assets mentioned therein. The second order infact flows from the first order dated 9th March, 2017. The Learned Counsel for the petitioners, sought to raise various contentions as regards whether the possession of the secured assets mentioned in the said order dated 9th March, 2017 could at all be ordered in the teeth of the fact that the petitioners have paid substantial amounts and the

respondent-Bank has also released the office premises being B-5 and B-6. It is not necessary for us, to go into the said aspects when an alternate efficacious remedy by way of an application under Section 17 of the Sarfesi Act is available to the petitioners. Hence, by relegating the petitioners to the said remedy, the above Writ Petition is disposed of.

3. Needless to state that, we have not gone into the merits of the case of the petitioners and it is before the DRT that the petitioners can raise such contentions as are available in law to them and it is for the DRT to decide any such application by the petitioners in accordance with law.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)