

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

**WRIT PETITION NO. 4911 OF 2018**

|                          |                 |
|--------------------------|-----------------|
| Daiyan Ahmed Azmi & Ors. | ... Petitioners |
| V/s.                     |                 |
| Canara Bank & Ors.       | ... Respondents |

Mr. Manoj Khatri a/w Mr. Arnab Ghosh for the Petitioners.  
Mr. Prakash Shinde, Ms. Swati Deshpande i/b MDP & Partner for  
Respondent No.1- Bank.  
Ms. Jyoti P. Jadhav, A.G.P. for Respondent No.3-State.

**CORAM : A.A. SAYED AND  
K.K. SONAWANE, JJ.**

**DATE : 11<sup>th</sup> JULY, 2018.**

**P.C. :**

1 This Writ Petition is filed seeking the following reliefs :

- a) *Rule be issued;*
- b) *By issuing appropriate writ order by directing the stay of the operation and execution of the order dated 9<sup>th</sup> March 2018 passed by Ld. Additional Chief Metropolitan Magistrate in the Application bearing Nos.588/SA/2017 filed by Respondent No.1 under Section 14 of the SARFAESI Act during the pendency of the Moratorium period;*
- c) *By issuing appropriate writ order by directing the stay of the operation and execution of the notice dated 5<sup>th</sup> April, 2018 upon being appointed as the Court Commissioner vide order dated 9<sup>th</sup> March, 2018 passed by Ld. Additional Chief Metropolitan Magistrate in the Application bearing Nos.588/SA/2017 filed by Respondent No.1 under Section 14 of the SARFAESI Act during the pendency of the Moratorium period;*

- d) *Interim and ad-interim relief in terms of prayer clauses from (a) to (c) be granted;*
- e) *Any other and further relief as the nature and circumstances of the case may require;*

2           It is an admitted position that subsequent to the order passed on dated 19.04.2018, possession of the secured assets have been taken (save and except two properties). In the circumstances, we are not inclined to keep this Petition pending in this Court as the Petitioners have a remedy before the DRT.

3           The learned Counsel for the Petitioners has relied upon the judgment of the Supreme Court in the case of ***Standard Chartered Bank vs. V. Noble Kumar And others***, (2013) 9 SCC 620 to contend that the remedy under Section 17 of the SARFAESI Act is not an efficacious remedy. We are unable to agree, in view of law laid down by the Supreme Court in the following cases :

- i) ***Agarwal Tracom Private Limited vs. Punjab National Bank And Others***, (2018) 1 SCC 626,
- ii) ***United Bank of India vs. Satyawati Tondon And Others***, (2010) 8 SCC 110
- iii) ***Kanaiyalal Lalchand Sachdev And others vs. State of Maharashtra And others***, (2011) 2 SCC 782.

iv) *Authorised Officer Indian Overseas Bank & Anr. vs. Ashok Saw Mill (2009) 8 SCC 366.*

4            In the circumstances, the Petition is dismissed. It will be open for the Petitioners to resort to the remedy available to them before the DRT, if so advised.

(K.K. SONAWANE, J.)

(A.A. SAYED, J.)

Waishali  
Sushil  
Waghmare

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by Waishali  
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Date: 2018.07.26  
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