

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4486 OF 2018

Bank of India, Kasargaon
Through Principal Officer
Balla Rambabu Bhaskar Rao

...Petitioner

Versus

The State of Maharashtra
Through Collector, Latur and Ors.

...Respondents

Mr. A.U. Deshmukh, Advocate for Petitioner
Mr. A.B. Chate, Assistant Government Pleader for
Respondents/State
Mr. P.B. Paithankar, Advocate for Respondent Nos. 2 to 2.7

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 26th MARCH, 2019

ORAL ORDER:

1. We have heard Mr. Deshmukh, the learned Counsel for the petitioner and Mr. Paithankar, the learned Counsel for the respondent Nos. 2 to 2.7.

2. The letter dated 30th January, 2017 is a subject matter of challenge in the present proceedings. The order directing the petitioner to deposit 5% of the amount to be recovered from the borrower is not countenance under any law. No provision is quoted under which the secured creditor is liable to deposit 5 % of the

recoverable amount to the District Magistrate while initiating proceedings u/s. 14 of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. The scope of section 14 is limited to the extent of assisting the secured creditor and recovering the physical possession and no further. The amount is to be subsequently recovered by taking effective steps under the provisions of section 13 (4) of the SARFAESI Act.

4. In light of the above, the impugned communication dated 30th January, 2017 is quashed and set aside.

5. It is made clear that if there is no stay granted to the proceedings under Section 14 of the SARFAESI Act initiated by the petitioner, then the District Magistrate shall proceed to conclude the said proceedings on its own merits in accordance with law expeditiously and preferably within a period of three months.

6. The Writ Petition is disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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