

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION (STAMP) NO. 860 OF 2020

Baswaraj U. Kumane & Anr.

.. Petitioners

Vs.

The Branch Manager,

Central Bank of India & Anr.

.. Respondents

Mr. Sanjay D. Thokade for the Petitioner.

Mr. V. K. Nair for the Respondents.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.

DATE : 23rd JANUARY, 2020.

P. C. :

1. The Petitioner is aggrieved by the communication dated 07.01.2020 informing the order passed under Sub-section 3A of Section 13 of the SARFAESI Act, 2002.
2. In view of the proviso to Sub-section 3 of Section 13 of the SARFAESI Act, 2002 learned Counsel for the Petitioner states that the writ remedy is the only remedy available.
3. In the decision reported in *2018 (1) Bankers' Journal 104* Bank of Travancore & Anr. Vs. Mathew K.C. the Supreme Court categorically held that the remedy of the borrower would be when pursuant to the order passed under Sub-section 3A of Section 13 of the SARFAESI Act, 2002 a possession notice under Sub-section 4 of Section 13 of the SARFAESI, 2002 is issued. We note that the communication dated

07.01.2020 itself records that if the demand is not satisfied, the bank would be constrained to exercise the powers vested under Sub-section 4 of Section 13 of the SARFAESI Act, 2002. The Petitioner has been fore warned and thus the Petitioner is fore armed. The moment the bank intimates that its threat of proceeding under Sub-section 4 of Section 13 of the SARFAESI Act, 2002 has translated into a reality, the Petitioner can approach the Debt Recovery Tribunal. Thus, we decline to entertain the Writ Petition.

4. The Writ Petition is rejected.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

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by Arjun M.
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