IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7486 OF 2021

Liladhar Ladappa Kendole,
Age 61 years, Occupation Business,
Proprietor of Lakshmi Knitters,
Having address at 514/1/A/1,
Vijay Nagar, Village Kumbhari,
Taluka Sough Solapur, Solapur-413006. … Petitioner

Vs.

1. Solapur Janata Sahakari Bank Ltd.,
Old Kumbhari Road Branch,
Neelam Nagar, Solapur-413 006.

2. The District Magistrate,
Collector Compound, First Floor,
Main Building, Sidheshwar Peth,
Solapur, Maharashtra

3. Tahsildar,
North Solapur, Solapur.

4. Senior Inspector of Police,
MIDC Police Station,
Solapur-413 006.

5. Trushita Vinayak Racharla,
Trushita Apt. Flat A-1, 29A/1B,
New Paccha Peth, Solapur-413 006. … Respondents

Mr. Subhash Jha with Mr. Tanmay Malusary and Mr. Tushar Bansode i/b Law Global Advocates, Advocates for the Petitioner.
Mr. Puneet Gogad, Advocate for Respondent No.1-Bank.
Mr. Mayank Bagla i/b Mr. Kushal Sawant, Advocate for Respondent No.5-Auction Purchaser.

CORAM : S.J. KATHAWALLA &
ABHAY AHUJA, JJ.

DATE : 9th NOVEMBER, 2021

JUDGMENT (PER COURT) :

1. Rule. Rule made returnable forthwith. By consent of counsel for the parties, the petition is heard finally.

2. By this Petition filed under Article 226 of the Constitution of India, 1950, Petitioner seeks to challenge the order dated 15.08.2021 passed by respondent no.2- District Magistrate, Solapur under Section 14 of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act") in Secu./SR/64/2020 and the auction notice dated 20th February, 2021 issued by Respondent No.1 – Bank and also the auction which has already taken place and sale price received from Respondent No.5.

3. The facts leading to the filing of the petition are as under:-

Petitioner had availed of financial assistance of term loan and cash credit facility of total amount of Rs. 4,55,00,000/- from the respondent no. 1 Bank out of which a total of Rs. 2,69,00,000/- was disbursed on the security of its property i.e. factory property at village Kumbhari, Solapur and house property at New

Pacchha Peth, Solapur.

4. On 31.05.2019, the respondent no. 1 bank declared the account of the petitioner as Non Performing Asset (NPA). On 09.07.2020, respondent no.1 bank issued two notices under Section 13 (2) of the SARFAESI Act, one in respect of term loan and other in respect to the cash credit. Petitioner replied to the said notices vide letter dated 14.09.2020. Respondent no. 1 bank also filed rejoinder to the said letter vide letter dated 28.09.2020. Thereafter, respondent no.1 bank issued public notice under Rule 8(1) of the Security Interest (Enforcement) Rule, 2002 (the "Security Interest Rules") informing the public at large that the physical possession of the factory property was taken over by respondent no.1 bank on 19.11.2020. Also on 19.11.2020, symbolic possession of the house property was taken by the respondent no.1 bank. An auction notice dated 15.12.2020 was published in the local Marathi newspaper named "Sanchaar" on 16.12.2020 scheduling the auction on 19.01.2021. Soon thereafter, petitioner filed an application under Section 17 of the SARFAESI Act bearing Securitisation Application no. 148 / 2020 before the Debt Recovery Tribunal (DRT), Pune challenging the said auction notice, which is admittedly pending. Thereafter, during the pendency of the said application under Section 17 of the SARFAESI Act, petitioner filed writ petition bearing no. WP(ST) 99895 of 2020 before this Court challenging the said auction notice. In view of the pendency of the

application under Section 17 of the SARFAESI Act, the said writ petition came to be disposed off vide order dated 07.01.2021 directing the petitioner to approach the DRT. The said order is quoted as under:-

> “. Heard the learned Counsel for the parties.
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> 2. A preliminary objection is taken by the Respondents that the Petitioner has a remedy in law to approach the Debt Recovery Tribunal and in fact the Petitioner has already approached the Debt Recovery Tribunal.
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> 3. The learned Counsel for the Petitioner submitted that the Petitioner was orally informed by the learned Counsel representing the Petitioner that in the Tribunal, that Debt Recovery Tribunal, Hyderabad is not granting circulation. This cannot be a ground for entertaining a writ petition. Further the learned Counsel for Respondent submitted that the Debt Recovery Tribunal, Aurangabad is taking up the cases now.
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> 4. The learned Counsel for the Petitioner submitted that sale of the property in question is scheduled on 19 January 2021. It is open to the Petitioner to make a request to the Debt Recovery Tribunal taking up the matter to take the Petitioner’s application before 19 January 2021 and it is open for the Debt Recovery Tribunal to consider the same.
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> 5. The Writ Petition is accordingly disposed of. All contentions of the parties are kept open.”

5. Thereafter, petitioner filed interim application no. IA/371/2020 in the securitisation application/148/2020 pending under Section 17 of the SARFAESI Act seeking stay of the auction to be conducted on 17.01.2021. The DRT, Pune stayed the auction subject to the conditions therein. The operative part of the said order is quoted as under:-

> ".. In these circumstances the following orders are passed:
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> (i) Rs. 5 lakhs to be deposited tomorrow i.e. 19th January, 2021 before the sale. Another Rs. 5 lakhs within 08 days from today i.e. by 27th January, 2021 and by 18th February, 2021 50% of the liability minus Rs. 10,00,000/-.
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> (ii) Both the parties can go ahead for one time settlement, if they desire so. The entire liability to be cleared by 31st March, 2021. In these circumstances, if the applicant fails to comply any of the above undertaking of the deposit of the money, the properties shall be put to the auction. The cost of this auction and publication shall be borne by the applicant. The bank shall intimate the exact amount of the expenses which shall also be paid by the applicant within one month. As such the auction scheduled to be held tomorrow shall be stayed.
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> 4. List the matter on 2nd March, 2021 for compliance of the order. In the meantime, parties are at liberty to move any Interlocutory application in case of any emergency."

6. Petitioner also moved an interim application IA/29/2020 in the said SA No. 148 of 2020 seeking possession of the factory premises back to the petitioner as an agent of the Court. Thereupon by an order dated 30.01.2020, Joint inspection of the factory premises was directed and the matter was adjourned to 12.02.2021.

7. Respondent no.1 bank thereafter issued another auction notice dated 20.02.2021 published in local Marathi news paper "Divya Marathi" on 21.02.2021, scheduling the auction of the said property on 10.03.2021. In the said auction, the house property was purchased by respondent no.5. Thereafter, sale

certificate was issued in favour of respondent no.5 and the same was registered in the name of respondent no.5-the auction purchaser. On 15.08.2021 respondent no.2-District Magistrate, Solapur passed an order under Section 14(1)(a)(b) of the SARFAESI Act pursuant to a proposal dated 02.03.2021 on behalf of the respondent no.1-Bank directing respondent no.1-bank to take possession of the house property of the petitioner after recording his satisfaction. A notice dated 18.10.2021 was issued by respondent no.3-Tehsildar to the petitioner for taking physical possession of the house property with the assistance of the respondent no.4-Sr. Police Inspector on the basis of the above order. We are informed that the said taking over of the physical possession is scheduled for today.

8. Learned counsel for petitioner submits that the District Magistrate has passed an order dated 15.08.2021 under Section 14 of the SARFAESI Act without issuing notice and in gross violation of principles of natural justice and without any application of mind. He submits that the claim amount of 2,17,00,000/- as per the demand notice and the value of the properties which are secured in favour of the respondent no.1 bank far exceed the said amount. He relies upon the following table in the petition in support of his contention.

Sr.No.	Description of the Properties	Amount as per Valuation in 2020 (in Rs.)	Amount as per Valuation in 2017 (in Rs.)	Amount as per valuation after symbolic possession (in Rs.)
1	Property bearing Gat No. 514/A/1, situated at Village Kumbhari, Taluka South Solapur, Solapur 413 006 (Factory Property)	5,08,43,800	4,82,00,000	1,20,00,000
2	Property bearing Plot No. 9, CTS No. 10384(P), Final Plot No. 29/A, TP-1, New Pacchha Peth, Solapur (House Property)	81,98,000	98,93,000	48,08,000
3	Machineries at Factory	1,31,00,000	1,66,00,000	1,20,00,000
	Total	6,47,63,600	7,46,93,000	2,88,08,000

9. According to him auction of the three properties at the same time is fraudulent, malicious, ill motivated and detrimental to business and industry in the already pandemic affected bad time. Learned counsel submits that order of the Magistrate dated 15.08.2021 does not justify the taking over possession of petitioner's residential property and nowhere furnished the reasons regarding his satisfaction except the bald statement that he is satisfied under Section 14 of the SARFAESI Act. He submits that learned Magistrate ought to have heard the petitioner and dealt with the merits of the matter before directing the physical

possession of the house property. He submits that the order is a cryptic order and deserves to be set aside *in limine*.

10. Learned counsel for petitioner also submits that in the light of the Suo Moto order dated 16.04.2021 in Suo Moto Public Interest Litigation No.1 of 2021 passed by this Court, the bank could not have issued the second auction notice nor taken further steps including the passing of the order dated 15.08.2021 as the same is in breach of the Suo Moto Order of this Court.

11. Mr. Jha, learned counsel for petitioner also submits that the said order is in violation of Section 26-D of the SARFAESI Act as a search at the Central Registry viz. CERSAI annexed as Exhibit-R to the petition, nowhere indicates that the security interest in favour of the first respondent by the petitioner has been registered as is required for exercise of right of enforcement securities under the said Act. He, therefore, submits that this Court should declare the order dated 15.08.2021 passed by respondent no.2 in SECU/SRI/64/2020 as being *void-ab-initio* being rendered without any authority and in violation of principles of natural justice as well as the statutory provisions.

12. Mr. Jha, learned counsel for petitioner seeks to rely upon the following

decisions in support of his contentions:-

(i) Johra and Ors Vs. State of Haryana and Ors in Civil Appeal Nos. 11757-11758 of 2018 (Supreme Court)

(ii) Kumkum Tentiwal Vs. State of UY.P. and Ors in Writ-C no. 38578 of 2018 (Allahabad High Court)

(iii) Medineutrina Pvt Ltd. Vs. District Industries Centre (DIC) and Ors, 2021 SCC OnLine Bom 222.

(iv) Harshad Govardhan Sondagar Vs. Internatioanl Assets Reconstruction Company Limited and Ors. (2014) 6 SCC 1.

13. Learned counsel, therefore, seeks injunction/restraint on the respondent from in any manner proceeding any further with the order dated 15.08.2021 and notice dated 18.10.2021 issued by respondent no.3. Learned counsel also seeks declaration that the auction notice dated 20.02.2021 issued by the respondent no.1 - bank as well as the auction conducted thereof be declared as null and void.

14. On the other hand, learned counsel appearing for the bank relies upon the affidavit challenging the maintainability of the petition on the ground of efficacious remedy available under Section 17 of the SARFAESI Act and invocation of the extra ordinary remedy under Article 226 of the Constitution of

India is completely unwarranted. Learned counsel for the bank refers and relies upon the following three decisions:-

(i) Authorized Officer, State Bank of Travancore and Another Vs. Mathew K. C., 2018 SCC OnLine SC 55.

(ii) ICICI Bank Limited and Ors Vs. Umakanta Mohapatra and Ors. (2019) 13 SCC 497.

(iii) Gauravi G. Bandodkar and Ors. Vs. State of Goa, 2021 SCC OnLine Bom 474.

15. He further submits that several opportunities have been granted to petitioner since issue of the notice of demand on 09.07.2020 and even before that to repay the outstanding dues, but the petitioner has failed to do so despite several opportunities as can be seen from the dates mentioned in the petition.

16. He submits that petitioner is seeking to stall the due process of law by yet another attempt by filing this petition as he has unsuccessfully done in the past. Learned counsel for the respondent no.1 submits that every procedure in the book has been duly followed till date and there is no reason as to why this court should interfere after the conclusion of the sale transaction in favour of respondent no.5-auction purchaser.

17. Learned counsel for the auction purchaser, Mr. Bagla relies upon the affidavit filed by respondent No.5 and submits that as per the scheme of the SARFAESI Act, the petitioner should have availed of remedy under Section 17 thereof and invocation of extra ordinary jurisdiction of this Court under Article 226 of Constitution of India is unwarranted. He submits that the petitioner's application under Section 17 of the SARFAESI Act is already pending as securitisation application no. 148/2020 and petitioner has not approached DRT, Pune to challenge sale notice dated 20.02.2021 within 45 days, which is the prescribed period of limitation but has mischievously approached this Court under the extra ordinary writ jurisdiction on 03.11.2021 i.e. almost after 9 months to get away from the issue of limitation. He submits that petitioner is attempting to abuse the process of writ jurisdiction and on this ground alone petition aught to be dismissed. He reiterated that it is settled law that any challenge to Section 14 order passed by the District Magistrate lies before the DRT under Section 17 of the SARFAESI Act. He also seeks to rely upon the same three decisions as relied upon by respondent no.1.

18. He submits that respondent no.5 has purchased house property in the auction conducted by respondent no.1 bank and has paid 61 lacs as per the terms and conditions of the sale tender. In turn, bank has issued the sale certificate

which has been registered with the office of sub-Registrar, Solapur bearing No. 5551 of 2021 and all right, title, interest, therefore, are vested in respondent no. 5. Learned counsel also submits that though petitioner has approached DRT, Pune and filed SA No. 148/2020, the petitioner has not chosen to challenge the sale notice dated 20.02.2021 nor the auction conducted nor the sale certificate issued in his favour. He submits that in fact, petitioner has not even complied with the orders passed by DRT, Pune and breached the undertaking that he would pay the entire outstanding by 31.03.2021. He, therefore, submits that petition be dismissed with exemplary costs.

19. We have heard Mr. Subhash Jha, learned counsel for petitioner, Mr. Puneet Gogad for respondent no.1 and Mr. Mayank Bagla for respondent no.5 and with their able assistance have perused the papers and proceeding in the matter.

20. The aforestated facts not being in dispute, the issue that arises for our consideration is whether the Order dated 15.08.2021 passed by the Additional District Magistrate, Solapur calls for any intervention by this Court.

21. The law in respect of the jurisdiction conferred upon the District Magistrate under Section 14 of the SARFAESI Act has been settled by the

Division Bench of this Court in the case of **Trade Well Vs. Indian Bank; 2007(1) Bom. C.R. (Cri) 783**. The Division Bench of this Court has held as follows :-

> "1. The bank or financial institution shall, before making an application under section 14 of the NPA Act, verify and confirm that notice under section 13(2) of the NPA Act is given and that the secured asset falls within the jurisdiction of CMM/M before whom application under section 14 is made. The bank and financial institution shall also consider before approaching CMM/DM for an order under section 14 of the NPA Act, whether section 31 of the NPA Act excludes the application of sections 13 and 14 thereof to the case on hand.
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> 2. CMM/DM acting under section 14 of the NPA Act is not required to give notice either to the borrower or to the 3rd party.
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> 3. He has to only verify from the bank or financial institution whether notice under section 13(2) of the NPA Act is given or not and whether the secured assets fall within his jurisdiction. There is no adjudication of any kind at that stage.
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> 4. It is only if the above conditions are not fulfilled that the CMM/DM can refuse to pass an order under section 14 of the NPA Act by recording that the above conditions are not fulfilled. If these two conditions are fulfilled, he cannot refuse to pass an order under section 14.
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> 5. Remedy provided under section 17 of the NPA Act is available to the borrower as well as the third party.
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> 6. Remedy provided under section 17 is an efficacious alternative remedy available to the third party as well as to the borrower where all grievances can be raised."

22. The aforesaid principles have been reiterated by a decision of this Court in the case of **The Saraswat Co-operative Bank Limited Vs. The State of**

Maharashtra & Anr. [Writ Petition No.4344 of 2011] authored by Hon'ble Justice Dr. D.Y. Chandrachud (as His Lordship then was), where this Court had held that the Collector would be bound to follow the principles of law which have been laid down in the decision in the case of **Trade Well (supra)**. While holding so, this Court in the decision of **The Saraswat Co-operative Bank Limited (supra)** has emphatically held that it does not lie within the jurisdiction of the Collector under Section 14 to enter upon an adjudication of the merits of the claim of the bank. The limited parameters of the Collector's jurisdiction have been explained by the Division Bench in **Trade Well (supra)** and in that view of the matter, this Court directed the second respondent to expeditiously conclude the pending applications. We consider it apt to quote paragraphs 4 to 8 of the said decision, which squarely apply to the facts at hand, as under :-

> "4 For the purposes of these proceedings, it is not necessary to advert to each one of the cases which have been referred to in Exhibit "A" to the Petition or the reply by the Collector. It would suffice to note that in several of those cases, the Collector at Sangli has not taken action for nearly three years. In certain cases, action was not taken merely on the ground that a Suit was pending. The law in respect of the jurisdiction which is conferred upon the District Magistrate under Section 14 is settled by a judgment of a Division Bench of this Court consisting of Smt. Ranjana Desai and Shri Anoop V. Mohta, JJ. in **Trade Well vs. Indian Bank; 2007(1) Bom. C.R. (Cri) 783** .
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> ………………………..
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> ………………………..

5 The Collector would be bound to follow the principle of law which has been laid down in the judgment of the Division Bench. It does not lie within the jurisdiction of the Collector under Section 14 to enter upon an adjudication of the merits of the claim of the Bank. The limited parameters of his jurisdiction have been explained by the Division Bench in **Trade Well**. In this view of the matter, we direct that the Second Respondent shall expeditiously conclude the pending applications, and in any event, within a period of one month from the date on which an authenticated copy of this order is produced on his record. We also direct that in all future cases, all Collectors and District Magistrates shall maintain a record of applications received and endeavour to conclude the hearing of those applications and pass final orders thereon as expeditiously as possible and in any event within a period of two months. We clarify that we have not entered upon the merits of the individual applications concerning borrowers in the present case who are not parties to these proceedings. We have entered upon the grievance of the Petitioner since it related to the failure of the Collector to adhere to the legal principles enunciated in the judgment of this Court in relation to the exercise of the powers under Section 14.

6 The Petition is accordingly disposed of with the aforesaid directions. There shall be no order as to costs.

7 We direct that a copy of this order shall be circulated by the State Government to all the District Magistrates who are vested with jurisdiction under Section 14 of the Act so as to facilitate compliance.

8 The Registrar(Judicial) shall forward copies of the present judgment to the Chief Metropolitan Magistrates for information."

23. Coming to the Apex Court's decision in the case of **Authorised Officer, State Bank of Travancore and Another Vs. Mathew K.C.; (2018)3 SCC 85**, relied

upon by respondent no.1 Bank as well as respondent no.5, the Apex Court has categorically observed that the SARFAESI Act is a complete code in itself, providing for expeditious recovery of dues arising out of loans granted by financial institutions, with the remedy for the aggrieved under Section 17 before the Debt Recovery Tribunal. It has been observed therein that when the remedy under Section 17 of the SARFAESI Act is available before the Tribunal, considering the statutory scheme, the object and purpose of the legislation, a writ petition ought not to be entertained. The Hon'ble Supreme Court referred to the decision in the case of **United Bank of India Vs. Satyawati Tandon and others; 2010 (8) SCC 110** wherein the High Court had restrained further proceedings under Section 13(4) of the SARFAESI Act. The Hon'ble Apex Court observed that upon a detailed consideration of the statutory scheme under the SARFAESI Act, the availability of remedy to the aggrieved under Section 17 of the Act before the Tribunal and the appellate remedy under Section 18 before the appellate tribunal, the object and purpose of the legislation, that a writ petition ought not to be entertained in view of the alternate statutory remedy available. Paragraphs 11, 12, 13, 17 and 18 of the said decision are quoted as under :-

> "11. In Satyawati Tandon (supra), the High Court had restrained further proceedings under Section 13(4) of the Act. Upon a detailed consideration of the statutory scheme under the SARFAESI Act, the availability of remedy to the aggrieved under Section 17 before the

Tribunal and the appellate remedy under Section 18 before the Appellate Tribunal, the object and purpose of the legislation, it was observed that a writ petition ought not to be entertained in view of the alternate statutory remedy available holding :-

"43. Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."

12. In Union Bank of India and Another vs. Panchanan Subudhi, 2010 (15) SCC 552, further proceedings under Section 13(4) were stayed in the

writ jurisdiction subject to deposit of Rs.10,00,000/- leading this Court to observe as follows :

"7. In our view, the approach adopted by the High Court was clearly erroneous. When the respondent failed to abide by the terms of one-time settlement, there was no justification for the High Court to entertain the writ petition and that too by ignoring the fact that a statutory alternative remedy was available to the respondent under Section 17 of the Act."

13. The same view was reiterated in Kanaiyalal Lalchand Sachdev and others Vs. State of Maharashtra and others, 2011 (2) SCC 782 observing:

"23. In our opinion, therefore, the High Court rightly dismissed the petition on the ground that an efficacious remedy was available to the appellants under Section 17 of the Act. It is well settled that ordinarily relief under Articles 226/227 of the Constitution of India is not available if an efficacious alternative remedy is available to any aggrieved person. (See Sadhana Lodh v. National Insurance Co. Ltd.; Surya Dev Rai v. Ram Chander Rai and SBI v. Allied Chemical Laboratories.)"

17. The writ petition ought not to have been entertained and the interim order granted for the mere asking without assigning special reasons, and that too without even granting opportunity to the Appellant to contest the maintainability of the writ petition and failure to notice the subsequent developments in the interregnum. The opinion of the Division Bench that the counter affidavit having subsequently been filed, stay/modification could be sought of the interim order cannot be considered sufficient justification to have declined interference.

18. We cannot help but disapprove the approach of the High Court for reasons already noticed in Dwarikesh Sugar Industries Ltd. vs. Prem

Heavy Engineering Works (P) Ltd. and Another, 1997 (6) SCC 450, observing :-

> "32. When a position, in law, is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops."

24. In the facts of the present case as well, we observe that petitioner has been granted ample opportunity before and also after declaration of its account as NPA by respondent No.1 Bank to make payment of its dues. Infact, from the dates and events set out earlier, the various unsuccessful attempts of petitioner to thwart recovery are clearly highlighted. We also observe that respondent No.1 Bank has diligently followed the due process in accordance with the procedure set out in the SARFAESI Act and the enforcement of the Security Interest (Enforcement) Rules, 2002. It is also admitted position that Section 17 application filed to stay the first auction is still pending. However, instead of pursuing the application under Section 17, petitioner has chosen to once again move this Court. As noted above as per the settled law, the duty of the Chief Metropolitan Magistrate

(CMM) / District Magistrate **(DM)** under Section 14 of the SARFAESI Act is only to ascertain whether the secured assets fall within his jurisdiction and to verify from the bank or financial institutions whether notice under Section 13(2) has been given or not. Once these two conditions are fulfilled, the CMM / DM has no option, but to pass the order. Therefore there is no necessity of hearing or even notifying the borrower or any third party. There is no adjudication of any kind at this stage. From a perusal of the notice dated 15.08.2021, it is quite obvious that the District Magistrate is satisfied about these two aspects. In case of any grievance, remedy is provided under Section 17 which is also available to the borrower and which is an efficacious and alternate remedy. It does not lie within the jurisdiction of the CMM / DM under Section 14 to enter upon an adjudication of merits of the claim of the bank. In our view the limited parameters of the jurisdiction have been met with and no fault can be found with the order of the District Magistrate.

25. With respect to the other submissions and decisions cited by the learned counsel for petitioner in support of his contentions, we are of the view that in the light of what we have observed above the said submissions and decisions do not assist the case of petitioner.

26. With respect to the submission of the learned counsel for petitioner on the breach of the Suo Moto Order of this Court, we have perused the said Order and the petitioner cannot be heard to say that the said Order has been breached since the petitioner is admittedly not physically dispossessed during the period when the said Order was in force. The said Order certainly does not prohibit a financial institution from instituting and continuing with the required legal proceedings prescribed in any law.

27. We are, therefore, not inclined to entertain the above Writ Petition. Petition is dismissed. Rule stands discharged. No order as to costs.

(ABHAY AHUJA, J.) **(S.J. KATHAWALLA, J.)**