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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11914 OF 2022

Sanmitra Sahakari Bank Limited

....Petitioner

V/s.

State of Maharashtra, The District
Magistrate And District Collector
And others

.....Respondents

Mr. Vishwajeet S. Kapse a/w Ms. Bharti Jaronde i/b Mr. Shailesh D.
Chavan Advocate for the Petitioner.
Ms. Shruti D. Vyas 'B' Panel counsel for State.
Mr. Pankaj Sutar a/w Mr. Priyank Daga i/b Jayakar and Partners Advocate
for Respondent nos. 2 and 3.

**CORAM : NITIN JAMDAR &
GAURI GODSE, JJ.**

DATE : 30 NOVEMBER 2022.

P.C.

This is yet another instance we have come across where a full fledged adjudication is done by the District Magistrate in the application of secured creditor under section 14 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest

Act, 2022 for taking possession of the secured asset.

2. We have gone through the order of the District Magistrate-Collector. It reads as if it is a judgment. Various aspects on the merits between the parties are commented upon. The District Magistrate has also stated that the conduct of the Petitioner is blameworthy. A reference is made to the proceedings in the Cooperative Court. If in a pending proceedings orders are passed by the competent court restraining the secured creditor, then the the District Magistrate would be justified in not proceeding further. The entire discussion in the order was entirely unnecessary, as the District Magistrate does not have power to adjudicate the issue.

3. Therefore, the impugned order dated 10 March 2022 is quashed and set aside. It is clarified that if there is no restraint order obtained by the borrower from any competent court, then the District Magistrate is duty bound to proceed further after ensuring procedural compliance. The District Magistrate would take necessary steps within period of two weeks. Writ petition is accordingly disposed of.

[GAURI GODSE, J.]

[NITIN JAMDAR, J.]