IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2382 OF 2023

Bank of Maharashtra through its Authorized officer Mr. Anup Kumar Singh	...Petitioner
Versus	
M/s. Hindustan Paper Mills through its Partner and Ors.	...Respondents

Mr. Chaitanya B. Nikte a/w. Prajit S. Sahane, *for Petitioner.*

Mr. A.I. Patel, Addl. G.P. and Mr. M.M. Pabale, *AGP, for Respondent/State.*

Mr. Ashish Dubey, *for Respondent No. 1.*

CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.
DATE : JULY 25, 2023

P. C.

1. Rule. With the consent of the parties, rule is made returnable forthwith and heard finally.

2. In the above Writ Petition, the Petitioner challenges the Order dated 11th November, 2022 passed by the learned Consumer District Redressal Forum, Satara, and the impugned Order dated 17th March, 2020 passed by the State Consumer Redressal Forum.

3. The Order passed on 11th November, 2022 was in an

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application filed by the Petitioner for vacating the interim stay restraining the Petitioner Bank from initiating and/or proceeding further under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for short the "**SARFAESI Act**"). The Order passed on 17th March, 2020 by the State Consumer Redressal Forum was *inter alia* upholding the Order passed by the lower authority under which interim stay was granted restraining the Petitioner Bank from proceeding with their SARFAESI action.

4. Noticing these facts, we pointed out to the learned Advocate appearing on behalf of Respondent No.1 that by virtue of Section 34 of the SARFAESI Act, no injunction could have been granted by the Consumer Forum restraining the Bank from taking any action under the provisions of the SARFAESI Act.

5. Faced with this situation, the learned counsel appearing on behalf of Respondent No. 1 submitted that Respondent No.1 would withdraw all proceedings before the Consumer Forum and challenge the actions of the Bank [initiated under the provisions of the SARFAESI Act], by approaching the Debt Recovery Tribunal (for short the **"DRT"**) U/s. 17 of the SARFAESI Act.

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6. Considering the stand taken by the first Respondent we hereby quash and set aside the Orders dated 24th December, 2019, 17th March, 2020 and 11th November, 2022.

7. The complaint filed by Respondent No. 1 namely Consumer Complaint bearing No. 358 of 2018 is hereby dismissed.

8. Liberty is granted to the first Respondent to approach the DRT U/s. 17 of the SARFAESI Act to challenge the action taken by the Petitioner/Bank. If any such application is filed, the same shall be decided on its own merit and in accordance with law.

9. Rule is made absolute in the above terms. No order as to cost.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.] **[B. P. COLABAWALLA, J.]**