

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12380 OF 2022

TRUPTI
SADANAND
BAMNE

Mr. Ashraf Akbar Shaikh

... Petitioner

VS.

The State of Maharashtra & Anr.

... Respondents

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.....

Mr. Prakash Nichani for the Petitioner.

Ms. Shruti D. Vyas, 'B' Panel Counsel for the State.

Mr. Vivek Sawant for Respondent No.2.

.....

**CORAM : NITIN JAMDAR &
ABHAY AHUJA, JJ.**

DATE : 9 MARCH 2023

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order dated 17 November 2021 passed by the Addl. Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. The learned Counsel for the Petitioner states that neither the Petitioner is the borrower nor the shop of which the Petitioner is in possession, is a secured asset. The learned Counsel for the Respondent- Bank controverts the position and states that the shop

which is stated to be in possession of the Petitioner is a secured asset and even if the Petitioner is not the borrower, the language of section 17 of SARFAESI Act is wide enough to include all those who claim to have interest in the secured assets and are aggrieved by the secured creditors. This position is correct and it is not necessary to entertain this writ petition. The learned Counsel for the Respondent -Bank states that no notice is issued to the borrower asking to handover possession and as and when the notice for taking over possession is issued to the borrower, cause of action would arise.

4. The parties are before us and that the order is passed on 17 November 2021 wherein rival contentions have been noted. By way of indulgence, we direct that a copy of the notice to be given to the borrower would also be given to the Petitioner by the Respondent - Bank. It is clarified that this direction is given out of indulgence and it should not be construed as reflection on merits of the rival contentions.

5. In light of the above, the writ petition is accordingly disposed of.

ABHAY AHUJA, J.

NITIN JAMDAR, J.