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

WRIT PETITION NO. 1518 OF 2023

Bank of India

... Petitioner

vs.

State of Maharashtra & Ors.

... Respondents

.....

Mr. O.A. Das with Ms. Priya Nigwekar for the Petitioner.

Mr. Subhash Jha with Mr. Tushar Bansode, Ms. Alka Pandey and
Mr. Akash Singh for Respondent Nos. 2 to 4.

.....

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

DATE : 9 FEBRUARY 2023

P.C. :-

Grievance of the Petitioner is that the Petitioner-Secured Creditor had approached the concerned Magistrate under section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2022 and even though all ingredients are satisfied, the Magistrate is not proceeded further in view of intervention of the borrowers whereby the borrowers are placed on record certain orders. According to the Petitioner, this order is not germane and does not stay the proceedings. The learned Counsel for the Respondents-Borrowers asserts to the contrary.

2. Whether the Magistrate should proceed further under section 14 of the SARFAESI Act 2002 and whether the order placed on record by the Respondents restrain the Magistrate from proceeding further is an issue that the Magistrate will have to decide at the first instance.

3. Therefore, we dispose of the petition observing that it is the District Magistrate who will examine the orders placed on record by the Respondents. If an order is passed by the competent court restraining the proceedings under section 14 of the SARFAESI Act 2002, then obviously the Magistrate cannot proceed. If the Magistrate finds that there is no such restraint order, then the Magistrate can proceed. This decision would be taken within two weeks from today.

4. The writ petition is accordingly disposed of.

ABHAY AHUJA, J.

NITIN JAMDAR, J.