

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6174 OF 2024

Rajesh B. Sawant

..Petitioner

Versus

The State of Maharashtra & Ors

..Respondents

None present for the Petitioner.

Mr.Sanjiv Punalekar, Advocates for Respondent No.2.

***Mr. K. B. Dighe, Addl.G.P. with Ms Tanaya Goswami,
AGP, for Respondent Nos.1 and 3.***

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**
DATE : APRIL 30, 2024

P.C.

When the above Writ Petition is called out, none appears on behalf of the Petitioner. We find that this Writ Petition is wholly misconceived. What is challenged in the above Writ Petition is an order dated 5th August, 2023 passed by the Chief Judicial Magistrate, Ratnagiri under Section 14 of the SARFAESI Act, 2002.

2 The Petitioner has an alternate remedy under Section 17 of the SARFAESI Act, 2002 which he has not availed of till date.

In these circumstances, the above Writ Petition is dismissed. However, there shall be no order as to costs.

3 We are informed by Respondent No.2 that after Respondent No.2 took physical possession of the secured asset pursuant to the order passed under Section 14 of the SARFAESI Act, 2002, the Petitioner herein (the borrower) has trespassed into the property. The Police are refusing to register an FIR because of the pendency of the present Writ Petition.

4 We clarify that since we have dismissed the Writ Petition, the Police machinery shall ensure that the FIR is taken on record, and thereafter taken to its logical conclusion. Since it is the case of Respondent No.2 that the Petitioner has trespassed into the secured property, it is also at liberty to file a Writ Petition seeking restoration of possession of the secured property.

5 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.

[SOMASEKHAR SUNDARESAN, J.] [B. P. COLABAWALLA, J.]