IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9609 OF 2024

Priyen Ravindra Khona ….. Petitioner

VERSUS

Dena Bank,
Now Bank of Baroda & Ors. ….. Respondents

Ms. Anshul Anjarlekar a/w. Mr. Rishabh Shah i/b. Raval-Shah & Co. for the Petitioner.

Ms. Tanaya D. Goswami, A.G.P. for the State.

Ms. Savita Nangare a/w. Mr. Vinod Nagula i/b. Law Focus for the Respondent – Bank of Baroda.

CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ

DATE : 23rd SEPTEMBER, 2024

P.C. :-

The challenge raised in this writ petition is to the order passed below Ex.11 by the learned Additional Chief Metropolitan Magistrate in the application preferred by the respondent no.1 – Dena Bank, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The petitioner having been arrayed as a non-applicant in the said proceedings filed by the respondent no. 1 – Bank of Baroda raised an objection to the recording of verification on the basis of the affidavit filed by the respondent no.1. The learned Magistrate on 10th May 2024 did not entertain the objection by observing that the provisions did not contemplate any hearing or consideration of any objection.

3. Being aggrieved, the petitioner has challenged the aforesaid order.

4. Having heard the learned counsel for the parties, we are of the view that the scope of the proceedings before the learned Magistrate under Section 14 of the said Act has been explained by the Supreme Court in case of *R.D.Jain & Company vs. Capital First Limited & Other, (2023) 1 SCC 675*. In paragraph 25 of the said judgment, it has been observed as under :-

> 25. ………………………… Thus, we reiterate that

> the step to be taken by the CMM/DM under Section 14 of the SARFAESI Act, is a ministerial step. While disposing of the application under Section 14 of the SARFAESI Act, no element of quasi-judicial function or application of mind would require. The Magistrate has to adjudicate and decide the correctness of the information given in the application and nothing more. Therefore, Section 14 does not involve an adjudicatory process qua points raised by the borrower against the secured creditor taking possession of secured assets.

5. It is thus clear that the Magistrate has to adjudicate and decide the correctness of the information given in the application preferred under Section 14 of the said Act. In that view of the matter, we do not find that it is necessary to go into the correctness of the order passed by the learned Magistrate on 10th May 2024. The proceedings under Section 14 are still pending. The same would be required to be decided within the parameters laid down by the Supreme Court referred to above.

6. By clarifying that it would be open for the learned Magistrate to decide the application filed under Section 14 expeditiously on its own merits, the Writ Petition is disposed of. It is made clear that the observations made in the impugned

order would not come into way of the learned Magistrate while deciding the proceedings finally.

7. Ordered accordingly.

[RAJESH S. PATIL, J.] **[A.S. CHANDURKAR, J.]**