



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL REVISION APPLICATION No.9 OF 2024

(HDFC Bank Ltd., through its its authorized officer Vs. Sau. Nasim Garve and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S.D. Ingole, Advocate for applicant.
None for the respondents.

CORAM : M.W. CHANDWANI, J.
DATE : 08th JANUARY, 2024.

1. The order dated 17.10.2023, passed by the Civil Judge Senior Division, Akola in Special Civil Suit No.93/2023, below Exh. No.20 whereby rejecting the application of applicant for rejection of plaint under Order 7 Rule 11 of the Code of Civil Procedure.

2. The contention is that the applicant who is Bank has taken steps under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'SARFAESI Act') against the respondent Nos.2 to 4 for default in making repayment of loan. Symbolic possession of the suit property, which was mortgaged by respondent Nos.2 to 4, have already been taken. The respondent Nos.2 to 4 have exhausted all the remedies provided under the SARFAESI Act. Now, the daughter of respondent No.2 and sister of respondent Nos.3 and 4 has filed a suit for declaration, partition, separate possession and permanent injunction claiming her interest therein. According to the applicant, said suit is barred in

view of the provisions of the SARFAESI Act.

3. Issue notice to the respondents, returnable within three weeks.
4. The trial court shall not proceed further till next date of hearing.

(M.W. CHANDWANI, J.)

Wadode