



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.3435 OF 2017

Jalgaon Peoples Co-operative Bank Ltd.
and another ... PETITIONERS

VERSUS

M/s Om Sai Extrusions Pvt. Ltd. ... RESPONDENT

.....
Shri V.D. Hon, Senior Counsel with
Shri A.V. Hon, Advocate for petitioner
.....

CORAM: S. B. SHUKRE, J.

DATED: 16th March, 2017.

ORAL ORDER :

1. Heard Mr. Hon, learned Senior Counsel for the petitioner. Learned Senior Counsel submits that, the respondent has come on to the scene only after he submitted his bid in the tender process initiated for sale of the secured asset and the purchase of the secured asset was confirmed in favour of the respondent. He further submits that, the status of the respondent is unfounded upon all the measures that were taken



by secured creditor like petitioner No.1 in respect of the sale of the secured asset, in exercise of his right under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). He further submits that, the whole foundation of the suit being the measures taken under Section 13(4) of the SARFAESI Act, the respondent shall have a right of appeal under Section 17 of the SARFAESI Act and the Civil Court would have no jurisdiction, in view of the bar under Section 34 of the SARFAESI Act. He further submits that, these important aspects have not been considered in proper perspective and applied by the learned Civil Judge to the facts of the instant case.

2. On going through the averments made in the plaint as well as the provisions of Sections 17 and 34 of the SARFAESI Act, I find that the argument made by learned Senior Counsel on behalf of the petitioners requires consideration.

3. Issue notice to respondent for final disposal returnable on 6th April 2017.

4. Meanwhile, there shall be ad-interim stay to the



effect and operation of the impugned order dated 27/9/2016 till next date. It is made clear that, the stay so granted shall have the effect of reviving the pendency of the application filed below Exhibit 14, which pendency shall be appropriately considered by the trial Court.

(S. B. SHUKRE)
JUDGE

fmp/wp3435.17