

**SUPREME COURT OF INDIA**

Sanjivkumar Surajprakash Aggarwal

Vs.

State Bank of India & Ors.

C.A.No.5401 of 2016

(Kurian Joseph and R.F.Nariman,JJ.,)

30.06.2016

**JUDGMENT**

**Kurian Joseph,J.,**

SLP(Civil)No.19616 of 2015

1. Leave granted.
2. The dispute in this appeal is whether the tenancy created in favour of the appellant is a sham one or not. It is not in dispute that there is no adjudication on this aspect. Under Section 14 of the SARAFESI Act, this aspect can be adjudicated before the Chief Metropolitan Magistrate, Esplanade Court, Mumbai.
3. Mr. Amarendra Sharan, learned senior counsel appearing for the Bank, submits that the Magistrate, in fact, had gone into the aspect while deciding the Intervention Application.
4. We do not think that the same would be sufficient in adjudicating the issue regarding tenancy. In our opinion, an inquiry, with the participation of the appellant, would be in the fitness and fairness of the adjudication. Therefore, this appeal is disposed of, directing the Magistrate to conduct an inquiry with regard to the genuineness of the tenancy created by the third respondent with the appellant. The parties shall appear before the Magistrate on 01.08.2016 and the Magistrate will conduct the required inquiry and complete the proceedings within one month thereafter.
5. Needless to say, the parties shall extend their cooperation, without praying for unnecessary adjournments, so that the matter can be decided within the stipulated time.
6. We make it clear that the pendency of the inquiry before the Magistrate shall not stand in the way of the Bank proceeding against the landlord in accordance with law.
7. I. A. No. 2 for directions is disposed of.

No costs.