

Court No. - 3

Case :- WRIT - C No. - 35205 of 2023

Petitioner :- M/S Shiv Zippers And 2 Others

Respondent :- Authorised Officer Canara Bank

Counsel for Petitioner :- Mayank Srivastava

Counsel for Respondent :- Krishna Mohan Asthana

Hon'ble Siddhartha Varma,J.

Hon'ble Manoj Bajaj,J.

When the possession of the petitioner was to be taken over by the order dated 26.8.2021, the petitioners approached the Debt Recovery Tribunal by means of a Securitization Application No. 656 of 2023.

Learned counsel for the petitioners states that on 16.8.2023, the following order was passed by the Presiding Officer of the Debt Recovery Tribunal :

"Counsel for the bank sought time for filing reply.

Counsel for the applicant stated that there is apprehension of dispossession in pursuance to the order passed u/s 14 of the Act.

Heard counsel for both the parties and peruse the record.

Heard counsel for both the parties. As regards grant of interim relief against the order of ADM is concerned, the Hon'ble High Court of Allahabad in the case of Shipra Hotels Ltd. & Anr. vs. State of U.P. & Ors. - in Writ (C) No. 22594 of 2022, in Para 52 of their judgment has clearly held that "However, it is clarified that the order passed by such Magistrate has to be duly served upon the borrower before taking any steps for his forcible dispossession by such steps or use of force, as may be necessary in the opinion of the Magistrate, and the date fixed for such forcible action shall be duly intimated to such borrower in advance giving them sufficient time to removed his belongings or to make alternative arrangement."

In view of law laid down by the Hon'ble Allahabad High Court, it is hereby directed that before proceeding for taking physical possession of the secured asset, ADM shall issue a notice of at

least 15 days to the applicants.

Parties are directed to complete the pleadings before the next date fixed.

List this case on 22.2.2024 for final arguments."

He, thereafter, states that despite the order on 16.8.2023 itself, the notice for possession was pasted outside the house of the petitioner much before 15 days.

Today, learned counsel for the petitioner has confined his prayer only to the prayer no. 2 of the writ petition that the perishable goods inside the premises be allowed to be taken by the petitioner.

Learned counsel for the Bank Sri Krishna Mohan Asthana, however, has opposed the prayer and has stated that since the Debts Recovery Tribunal is seized with the matter, this Court may not interfere and the petitioner be asked to press the prayer no. 2 of the writ petition before the Debts Recovery Tribunal itself.

We do find substance in the submissions of the learned counsel for the Bank.

Under such circumstances, no interference is being made. The petitioner may press the prayer no. 2 before the Debts Recovery Tribunal itself.

With these observations, the writ petition is dismissed.

Order Date :- 30.10.2023

PK

(Manoj Bajaj,J.) (Siddhartha Varma,J.)