

Court No. - 3

Case :- WRIT - C No. - 38803 of 2023

Petitioner :- M/S Bansh Scarp Supplier And 2 Others

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Ram Sajiwan Mishra, Satyam Mishra

Counsel for Respondent :- CSC, Gyan Prakash Shrivastava

Hon'ble Siddhartha Varma, J.

Hon'ble Manoj Bajaj, J.

1. This writ petition has been filed for quashing the order of the District Magistrate, Kanpur Nagar dated 29.08.2017, by which the District Magistrate had ordered for taking over the possession of the security. The petitioner has also prayed that the petitioners in pursuance of the order dated 29.08.2017 may not be evicted.

2. From the record we find that the auction had taken place on 05.10.2015. Once the auction has taken place and a third party right had been created, there was very little scope for the borrower to redeem the mortgaged as per the law laid down in the **Celir LLP vs. Bafna Motor (Mumbai) Pvt. Ltd. & Ors. (Civil Appeal Nos. 5542-5543 of 2023 decided on 21.09.2023)** under the writ jurisdiction.

3. The petitioners have already approached the Debts Recovery Tribunal by filing S.A. No. 280 of 2014 which was disposed of on 06.08.2014. The auction had taken place on 15.10.2015. The petitioner, if they are so advised, can always approach the Debts Recovery Tribunal again.

4. With these observations, the writ petition stands **disposed of**.

5. This order was passed in the presence of Sri Gyan Prakash Srivastava, learned counsel for the Bank.

Order Date :- 8.11.2023

M.S. Ansari

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