

Court No. - 3

Case :- WRIT - C No. - 42226 of 2023

Petitioner :- Gangotri

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Raman Pandey

Counsel for Respondent :- C.S.C.,Ajal Krishna

Hon'ble Siddhartha Varma,J.

Hon'ble Syed Qamar Hasan Rizvi,J.

1. This writ petition has been filed by the wife of the actual borrower who was also the guarantor, the actual borrower having died in the year 2018. Learned counsel for the petitioner states that there was no notice to the petitioner.

2. Learned counsel appearing for the Bank, however, has stated that the petitioner was served with a notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act") and this fact is also apparent from the order under Section 14 of the SARFAESI Act. Learned counsel therefore states that the petition may not be entertained in view of the law laid down in **Celir LLP vs. Bafna Motor (Mumbai) Pvt. Ltd. & Ors. (Civil Appeal Nos. 5542-5543 of 2023 decided on 21.09.2023)**.

3. We do find substance in the submission made by learned counsel for the petitioner. In view of the judgment of Supreme Court in **Bafna Motor (Supra)**, no interference is warranted.

4. If the petitioner is aggrieved by the auction proceedings, he may approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

5. The writ petition is accordingly, **dismissed**.

Order Date :- 7.12.2023

M.S. Ansari

(Syed Qamar Hasan Rizvi, J.) (Siddhartha Varma, J.)