NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1959 of 2015

1. Smt. Anita Devi W/o Shri Natwar Lal Agrawal Aged About 50 Years Proprietor M/s Hanuman Traders, Ganj Bazar P.S. & P.O. Kharsiya District Raigarh (Chhattisgarh) Pin 496661

2. Natwar Lal Agrawal S/o Shri Kawar Lal Ji Agrawal Aged About 53 Years Proprietor M/s Natwar Lal Agrawal, Ganj Bazar P.S. & P.O. Kharsiya District Raigarh (Chhattigarh) Pin 496661

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Bhawan, Post Office Mantralaya, P.S. Rakhi, Naya Raipur, District Raipur (Chhattisgarh) Pin 492002

2. Reserve Bank Of India Through The Governor, Reserve Bank Of India, Central Building Office, Shahid Bhagat Singh Road, Fort Mumbai (Maharashtra) Pin 400001

3. Central Bank Of India Through The Branch Manager, Central Bank Of India, 6/47 New Post Office, PS & PO Kharsiya District Raigarh (Chhattisgarh) Pin 496661

4. The Tahsildar Tahsil Kharsia, Tahsil Office Kharsiya District Raigarh (Chhattisgarh)

---- Respondent

For Petitioners : Shri Vipin Tiwari, Advocate.
For Respondent/State : Miss Tripti Rao, Panel Lawyer.
For Respondent No.3 : Shri Anand Shukla, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

07/12/2015

1. The petitioners have called in question the order dated 27.8.2015

(Annexure-P/1) and the order dated 9.10.2015 (Annexure-P/7), which is a demand notice issued by the Tehsildar under Section 146 of the CG Land Revenue Code, 1959 (henceforth 'the Code').

2. On 4.11.2015, this Court has passed the following order :-

> "Learned counsel for the petitioners would submit that despite there being a settlement before the Debt Recovery Tribunal (for short 'the DRT') and payment of Rs.5Lakhs by the petitioner in terms of the settlement, the Bank has approached the concerned Tehsildar, who has issued Revenue Recovery Certificate against the petitioner.
>
> Shri Shukla, learned counsel appearing for the respondent Bank, on advance notice, would submit that a Recovery Certificate has already been issued by the DRT.
>
> Considering the entire facts situation of the case, it is directed that the effect and operation of the Revenue Recovery Certificate issued by the Tehsildar shall remain stayed till the next date of hearing, subject, however, on petitioner's depositing Rs.20Lakhs on or before the 4th December, 2015.
>
> List this matter on **7th December, 2015**.
>
> Respondent Bank shall file return before the next date of hearing.
>
> Certified copy as per rules."

3. The above order was passed on the premise that once the recovery certificate has been issued by the jurisdictional DRT, it was not open for the Tehsildar to issue RRC/demand notice under the Code.

4. In course of hearing today, learned counsel for the respondent/Bank would submit that the Bank had never applied before Tehsildar for

issuance of RRC. After issuance of recovery certificate by the DRT, the Bank has moved before the District Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act, 2002') for obtaining possession of the mortgaged property and it appears, when the District Magistrate intended to issue notice of the said application to the petitioners, Tehsildar committed a mistake by issuing notice in form 'A' under Section 146 of the Code.

5. In view of the above, since learned counsel for the Bank has himself stated that no application has ever been moved before Tehsildar, the demand notice issued by the Tehsildar is declared inoperative.

6. The District Magistrate before whom the Bank has moved application under Section 14 of the Act, 2002, shall proceed with the matter in accordance with law.

7. The writ petition is accordingly disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve