

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2026 of 2015**

- Dansingh Rai S/o Akbar Singh Rai, Aged About 60 Years R/o Village Riyapali, Police Station Pussore, Civil & Revenue District Raigarh (Chhattisgarh)

---- Petitioner**Versus**

1. Manoj Kumar Sharma Branch Manager State Bank Of India Branch, Itwari Bazar Raigarh, Distt. Raigarh (Chhattisgarh)
2. The Chief Manager/ Director, State Bank Of Indore Branch Bhopal (Madhya Pradesh)
3. State Of Chhattisgarh, Through District Magistrate Raigarh (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Vivek Kumar Tripathi, Advocate
For Respondent-State	:	Ms. K. Tripathi Rao, PL for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****18/11/2015**

1. In this petition under Article 226 of the Constitution of India, the petitioner has assailed the legality and validity of the order passed by the District Magistrate, Raigarh in exercise of powers under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act, 2002').
2. It is argued that the action taken by the District Magistrate under Section 14 of the Act, 2002 has been accorded finality in sub section (3) thereof, therefore, the petitioner has no remedy elsewhere except to approach this Court under Article 226 of the Constitution of India. It is further argued that

the petitioner has paid substantial part of the dues, therefore, the District Magistrate should not have proceeded under Section 14 of the Act, 2002.

3. Learned counsel would next submit that the petitioner was regularly depositing the installments, therefore, the extreme step of recovery of possession of the mortgaged property ought not to have been initiated by the Bank.
4. Perusal of the impugned order would indicate that the Bank had issued notice to the petitioner under Section 13 of the Act, 2002 and has thereafter proceeded to invoke provisions contained under Section 14 of the Act to obtain possession of the secured asset. Attempt made by learned counsel for the petitioner to take this Court through the statement of accounts is not open for scrutiny by this Court in this petition, wherein challenge is to the proceedings under Section 14 of the Act, 2002. The petitioner should have preferred an appeal before the jurisdictional Debt Recovery Tribunal when the Bank proceeded to take steps under Section 13 of the Act, 2002. Having failed to prefer any appeal, it is not open for the petitioner to question the correctness of the account at this stage.
5. In the considered opinion of this Court, the petitioner having not brought to the notice of the Court any procedural defect of substantial nature committed by the District Magistrate while invoking under Section 14 of the Act, 2002, no ground for interference in this petition is made out. The Supreme Court in the matter of **B.K. Muniraju Vs. State of Karnataka and others**¹, has held thus in para 22:-

“22. It is settled law that a writ of certiorari can only be issued in exercise of extraordinary jurisdiction which is different from appellate jurisdiction. The writ jurisdiction

¹ (2008) 4 SCC 451

extends only to cases where orders are passed by inferior courts or tribunals or authorities in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their jurisdiction causing grave miscarriage of justice. In regard to a finding of fact recorded by an inferior tribunal or authority, a writ of certiorari can be issued only if in recording such a finding, the tribunal/authority has acted on evidence which is legally inadmissible, or has refused to admit an admissible evidence, or if the finding is not supported by any evidence at all, because in such cases the error amounts to an error of law. It is needless to mention that a pure error of fact, however grave, cannot be corrected by a writ.”

6. The petitioner has failed to point out any such inherent or palpable defect of jurisdiction in the impugned order, therefore, the writ petition deserves to be and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Ashu