NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 558 of 2015

1. Smt. Sushmita Mishra W/o Late Rajendra Kumar Mishra Aged About 51 Years
2. Yashu Mishra D/o Late Rajendra Kumar Mishra Aged About 20 Years
3. Priyanshu Mishra D/o Late Rajendra Kumar Mishra Aged About 18 Years

All R/o Govind B-3, Krishna Nagar, Bhatapara, Tah. & P.S. Bhatapara, Dist. Baloda Bazar-Bhatapara, (Chhattisgarh)

---- Petitioners

Versus

1. Bank of Baroda Through Chief Manager/authorized Officer, Regional Office, Bank Of Baroda, Near L.I.C. Office, Pandari, Raipur, P.S. Pandari, Tah. & Distt. Raipur, (Chhattisgarh)
2. Branch Manager, Bank Of Baroda, Bhatapara, Tah. Bhatapara, Distt. Baloda Bazar-Bhatapara, (Chhattisgarh)
3. Anil Kumar Trivedi S/o Late Shri Prabhudayal Trivedi, Aged About 55 Years R/o Rawatpura Nagar, Mathpuraina, Raipur, P.S. Civil Line, Tah. & Distt. Raipur, (Chhattisgarh)

---- Respondents

For Petitioners : Shri HV Sharma, Advocate
For Respondents No.1 & 2: Shri Ankit Singhal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

26/10/2015

1. Petitioner had obtained financial assistance (Housing Loan) of Rs.6.50 Lakhs from the respondent Bank. By notice Annexure P-9, the Bank has initiated proceedings under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act, 2002'), directing the petitioner to discharge the

liability aggregating Rs.626336/- along with the interest and other costs, expenses etc. When the petitioner refused to accept notice and instead sold the subject mortgaged property to one Anil Kumar Trivedi, the order Annexure P-10 was passed restraining the said Anil Kumar Trivedi from creating third party interest in the mortgaged property.

2. Shri Ankit Singhal, learned counsel for the respondent Bank would submit that the petitioner has alternative remedy of preferring appeal before the jurisdictional Debt Recovery Tribunal (for short 'the DRT').

3. Shri Sharma, learned counsel for the petitioner would submit that the Bank has not decided the representation preferred by the petitioner, in terms of Section 13 (3A) of the Act, 2002.

4. It appears, Bank has still not proceeded under Section 13 (4) of the Act, 2002. Petitioner has already deposited a sum of Rs.3.5 Lakhs as directed by this Court on 05-05-2015.

5. For the foregoing, the writ petition is disposed of with observation that before proceeding under Section 13 (4) of the Act, 2002, the Bank shall communicate the petitioner the decision taken on his representation as is required under Section 13 (3A) of the Act, 2002. If the Bank proceeds under Section 13(4), the petitioner would be at liberty to prefer an appeal before the jurisdictional DRT.

Sd/-

Judge
Prashant Kumar Mishra

ashu