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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2254 of 2016**

- M/s Swastik Seals And Packing Pvt. Ltd. Through Director Shri Rajendra Kumar Shrivastava, S/o Shri F. L. Shrivastava, Aged About 57 Years, R/o Industrial Growth Centre, Borai, Rasmada, Durg, District Durg, (Chhattisgarh)

---- Petitioner**Versus**

1. State Bank Of India Through Assistant General Manager, Stressed Assets Recovery Branch Bhilai, Sector-1, Bhili, District Durg, (Chhattisgarh)
2. State Bank Of India, Through Chief Manager, Stressed Assets Recovery Branch Bhilai, Sector-1, Bhilai, District Durg, (Chhattisgarh)
3. State Of Chhattisgarh, Through Collector, Durg, District Durg, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri R.K.Gomasta & Shri C.K.Sahu, Advocates
For Respondent/State	:	Shri U.N.S.Deo, G.A.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****05/09/2016**

Petitioner has assailed the legality and validity of the impugned notice for holding auction sale of the security interest for recovery of Rs.64,64,080.00/-.

2. It is argued that the Bank has already initiated proceedings under the Debts due to Banks and Financial Institutions Act, 1993 (for brevity, the Act of 1993'), therefore, the present auction sale is not maintainable.

3. Admittedly, the petitioner is a party before the Debts Recovery Tribunal (DRT for brevity) and is participating in the proceedings. The Bank has invoked the provisions contained under Section 13(4) of the Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act of 2002') and has obtained possession of the property described in the schedule attached with Annexure P/1.

4. The petitioner has alternative remedy of preferring an appeal before the DRT under Section 17 of the Act of 2002. Therefore, the present petition is not maintainable before this Court, as held by the Supreme Court in the matter of ***United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110*** and ***Devi Ispat Ltd. v. SBI, (2014 (5) SCC 762***.

5. In view of the above, the writ petition is dismissed. However, the petitioner would be at liberty to prefer an appeal before the jurisdictional DRT.

Sd/-

Judge
(Prashant Kumar Mishra)