

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 82 of 2016**

1. Smt. Kuppu Swami Lakshmi W/o Late K. Tangraj, aged about 45 years.
2. K. Vinod S/o Late K. Tangraj, aged about 29 years.
Both resident of Nakapara, Tehsil Gidam, District Dantewada, Chhattisgarh.

---- Appellants**Versus**

1. State Bank of India, Through authorised officer, Dantewada Branch, District Dantewada, Chhattisgarh.
2. C.G. Housing Board, Through its Commissioner, Shanker Nagar, Sector 1 Raipur, Chhattisgarh.
3. Chief Executive Engineer, C. G. Housing Board, Jagdalpur Division, Jagdalpur, Chhattisgarh.

---- Respondents

For Appellants	:	Shri Kshitij Sharma, Advocate.
For Respondent No. 1	:	Shri P.R.Patankar, Advocate.
For Respondents No. 2 and 3	:	Shri Sanjay Patel, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****16/02/2016**

1. The present appeal arises from order dated 28.1.2016 dismissing Writ Petition (C) No. 227 of 2016. The Learned Single Judge held that the writ petition against possession notice issued by the State Bank of India, Dantewada Branch in exercise of powers under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter called 'the Act') read with Rule 8 of the Security Interest (Enforcement) Rules, 2002 was not maintainable in view of the statutory alternative appellate remedy available before the Debts Recovery Tribunal under Section 17 of the Act relying on more than one judicial precedent.

2. Learned Counsel for the Appellants sought to persuade us that if Respondents No. 2 and 3 disbursed the dues, they shall be in a position to clear off their loans to the Bank.

3. Learned Counsel for the Respondents have opposed the appeal submitting that the order calls for no interference. The two causes of action being completely separate, writ petition for multifarious cause of action was not maintainable.

4. We have heard Learned Counsel for the parties.

5. It is a matter of settled practice that the discretionary jurisdiction under Article 226 of the Constitution is not to be exercised where a statutory alternative remedy is available. In (2010) 8 SCC 110 (United Bank of India v. Satyawati Tondon) it was observed as follows:

"55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection. "

This view has been consistently followed even after (2014) 5 SCC 762 (Devi Ispat Limited v. State Bank of India) referred to by the Learned Single Judge. We therefore find no reason to interfere with the order.

6. If the Appellants have any perceived grievances against Respondents No. 2 and 3, that issue has no relevance to the claims of Respondent No. 1. No writ petition will lie for multifarious cause of action. It would be for the Appellants to pursue remedies in that regard, if any, in accordance with law.

7. The writ appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE