NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 479 of 2016

M/s Laxminarayan Enterprises Proprietor Rajnarayan Mishra LIG-636 C G H B Colony Tatibandh Raipur (Chhattisgarh)

---- Petitioner

Versus

Dena Bank Through Authorized Officer/ Chief Manager Tatibandh Branch, Raipur (Chhattisgarh)

---- Respondent

Mr. Raj Narayan Mishra, petitioner in person.
Mr. Vinod Deshmukh, Advocate for the respondent on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

23/02/2016

Heard.

1. This petition has been filed by the petitioner assailing correctness and validity of statutory notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act of 2002"). Prayer has been made in the writ petition to quash notice dated 19.12.2015 and also to protect the property of the petitioner from being sold in realization of the loan liability.

2. The submission of the petitioner, who appears in person, is that the Bank has wrongly classified the loan in the case of the petitioner as non-performing asset. He submits that he has repaid substantial amount in the past and even if some defaults have taken place, it could not be classified as non-performing asset so as to attract initiation of proceedings under Section 13(2) of the Act of 2002. It is further submitted that the petitioner has given detailed representation vide Annexure P/8 followed by another reminders Annexure P/12 but till date, notice under Section 13(2) of the Act of 2002 has not been dropped. Therefore, the petitioner has rushed to the Court apprehending further coercive steps as contemplated under

Section 13(4) of the Act of 2002.

3. The statutory scheme of the Act of 2002 clearly shows that before proceedings to take further steps as provided under Section 13(4) of the Act of 2002, in case the borrower makes any representation or raises any objection, the secured creditor is obliged to consider such representation or objection as mandated under Section 13 sub-Section 3(A) of the Act of 2002.

4. It is only when the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he is then required to communicate within 15 days of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower.

5. In view of the above, this petition appears to be premature and is dismissed at this stage. The respondent shall communicate the decision taken by it in the matter to the petitioner as required under the law, if not already communicated. Thereafter, the petitioner would be at liberty to take such remedy as may be available to him under the law, in case his grievance is not redressed.

Sd/-

(**Manindra Mohan Shrivastava)**
J U D G E

Rekha