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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.3412 of 2017

Sanjay Awasthi S/o Late Kamta Prasad Awasthi Aged About 48 Years R/o 1 -20, Main Road, Geeta Nagar, Near Chaubey Colony, Raipur, Chhattisgarh.

---- Petitioner

Versus

1. Cholamandlam Investment And Finance Company Limited Through Its Authorised Officer, Branch Office 506- 509, Fifth Floor, National Corporate Park, Opposite Anupam Garden, G E Road, Raipur, Chhattisgarh.
2. District Magistrate, Raipur, Chhattisgarh.
3. Naib Tahsildar , Raipur, Chhattisgarh.
4. Maal Jamadar, Tahsil Office Raipur, Chhattisgarh.
5. Superintendent Of Police, Raipur, Chhattisgarh.
6. Station House Officer, Police Station Aamanaka, Raipur, Chhattisgarh.
7. Station House Officer , Police Station Saraswati Nagar, Raipur, Chhattisgarh.

--- Respondents

For Petitioner :Mr. Sachin Singh Rajput, Advocate
For State :Mr.Dhiraj Wankhede, Govt. Advocate
For Respondent No.1: Mr. Kshitij Sharma, Advocate
Mr.Prakash Verma, Assistant Manager, Cholamandalam Investment and Finance Company Ltd is present in person.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

13/12/2017

(1) Learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to deposit an amount in two installments before respondent No.1 on 31.12.2017 and 31.01.2018.

(2) Learned counsel appearing for the respondent No.1 would

submit that without prejudice to the objection as to maintainability the petitioner may prefer representation/application before respondent No.1 in accordance with Section 13(8) of SARFAESI Act, which will be decided in accordance with law. He would further submit that auction notice has yet not been published.

(3) I have heard learned counsel for the parties.

(4) Section 13(8) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 which provides as under:-

> "8**.** Where the amount of dues of the secured creditor together with all costs, charges and expenses incurred by him is tendered to the secured creditor at any time before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of the secured assets,
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> (I) the secured assets shall not be transferred by way of lease assignment or sale by the secured creditor; and
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> (ii) in case, any step has been taken by the secured creditor for transfer by way of lease or assignment or sale of the assets before tendering of such amount under this sub-section, no further step shall be taken by such secured creditor for transfer by way of lease or assignment or sale of such secured assets."

(5) Be that as it may, the petitioner is at liberty to make representation/application before the respondent No.1 under Section 13(8) of the Act of 2002 within a period of three days and also to make

request to deposit due amount in two installments on 31.12.2017 and 31.01.2018. That representation/application shall be considered and decided strictly in accordance with law by respondent No.1.

(6) With the aforesaid observation, the writ petition stands finally disposed of.

(7) Certified copy today.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-