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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 70 of 2017

- Sharad Goyal S/o Shri Sushil Kumar Agrawal, Aged About 25 Years Presently R/o. 97, Jalvihar Colony, Raipur, Tahsil & District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. The Punjab National Bank Through Its Managing Director & Chief Executive Officer, Corporate Office, 7, Bhikhaji Cama Place, New Delhi 110 607

2. Authorised Officer/ Chief Manager, Punjab National Bank, Main Branch, Lalganga City Mart, Motibagh Chowk, Raipur, Tahsil & District Raipur, Chhattisgarh.

3. The Central Bureau Of Investigation, Through Their Officer-In-Charge (A C B- Chhattisgarh), Bungalow No. 4, Street No. 15, Sector- 9, Bhilai, District Durg (Chhattisgarh)

4. M/s. Goodluck Petrolium Company Private Limited, 1st Floor, G. F. Palace Opp. Sahani Park Inn, Ring Road No. 1, Raipur, Tahsil & District : Raipur, Chhattisgarh.

5. M/s. Vardhman Infrastructure Through Its Partner : Poonam Singh Rajput S/o Shri Girdhar Singh Rajpoot, Aged About 31 Years, R/o : Rajendra Nagar, Raipur, Tahsil & District : Raipur, Chhattisgarh.

6. Vikram Rana S/o Shri R. C. Rana, Aged About 45 Years R/o Gali No. 5, Subhash Nagar, Fagwada, Punjab, The Other Partner Of M/s. Vardhman Infrastructure,

7. Union Of India, Through Its Secretary Ministry Of Finance, Department Of Financial Service, Govt. Of India, Jeevan Deep Building, Parliament Street, New Delhi 110 001.

8. State Of Chhattisgarh, Through Its Principal Secretary, Department Of Revenue, Govt. Of Chhattisgarh, Mantralaya, Mahanadi Gate Naya Raipur Capital Complex, Head Post Office Raipur, Tahsil : Raipur, Civil & Revenue District Raipur (Chhattisgarh)

9. Collector, Raipur, Tahsil & District Raipur (Chhattisgarh)

---- Respondent

For Petitioner	Mr.Rajkamal Singh, Advocate
For Respondent/UOI	Mr. N.K. Vyas, Assistant Solicitor General
For Respondent /State	Mr. UNS Deo, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

13/1/2017

1. Heard.

2. The petitioner would assail the E-Auction notice issued by the Punjab National Bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act, 2002") .

3. It appears the petitioner has purchased an area admeasuring 0.167 hectare bearing Khasra No.171/3 situated at Dharampura, Patwari Halka No.115 proposed Patwari Halka No.54, RI Circle, Raipur-1, from Poonam Singh and Vikram Rana, partners of M/s. Vardhman Infrasturcture, through a registered sale-deed dated 28.9.2012.

4. The said M/s. Vardhman Infrastructure appears to have mortgaged land bearing Khasra No.171/1 (part) with the Bank as security in the loan transaction of M/s Goodluck Petroleum Company Pvt. Ltd. On borrower's failure to repay the debt, the subject E-auction notice has been issued.

5. Mr. Rajkamal Singh, learned counsel for the petitioner, would submit that under Section 31(i) of the SARFAESI Act, 2002, the provisions of the said Act shall not apply to any security interest

created in agricultural land, therefore, the impugned E-auction notice is without jurisdiction.

6. On bare perusal of the E-auction notice, it would appear that the notice is for auction sale of open land bearing Khasra No.171/1 (part) and not of 171/3 or 171/5, as is mentioned in the sale deed or in the khasra papers produced by the petitioner.

7. Moreover, on the report of Vikram Rana, an FIR is under investigation against Poonam Singh for forging signature of Vikram Rana in the mortgaged document/agreement of guarantee in the loan transaction of M/s. Goodluck Petroleum Pvt. Ltd.

8. It also appears Vikram Rana has preferred a suit through his power of attorney holder for declaration of the agreement of guarantee/mortgage as null and void.

9. Surprisingly, Vikram Rana nowhere alleges in the plaint that at the time of execution of sale-deed with Poonam Singh in favour of the present petitioner, Poonam Singh informed him about the subject mortgage. In any case, if Poonam Singh has forged the signature of Vikram Rana in the deed of mortgage atleast Poonam Singh has validly created the mortgage in favour of Punjab National Bank.

10. The facts involved in the case are too many and complicated. It cannot be resolved in writ jurisdiction under Article 226 of the Constitution of India, more so, when the Khasra number mentioned in the E-aucton notice differs from the khasra

numbers mentioned in the sale-deed and in the khasra papers having the name of the petitioner.

11. In view of the law laid down by the Supreme Court in the matters of **Devi Ispat Limited and another Vs. State Bank of India and others, (2014) 5 SCC 762** and **Priyanka Srivastava and another Vs. State of Uttar Pradesh and others, (2015) 6 SCC 287**, the petitioner should avail the remedy of appeal before the jurisdictional DRT.

12. The writ petition is accordingly dismissed, as not maintainable, with the aforesaid liberty granted to the petitioner.

Sd/-

Judge

(Prashant Kumar Mishra)

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