NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 458 of 2014

Hiramani Jaiswal S/o Late Parmatma Jaiswal, aged about 38 years, R/o Village – Hardi Bazar, P.O. and P.S. Katghora, Tahsil Katghora, District Korba (C.G.) **---- Petitioner**

Versus

1. UCO Bank (A Government of India under taking) through authorized officer, M.V. Market, near old bus stand, Bilaspur, District Bilaspur (C.G.)
2. Branch Manager, UCO Bank (A Government of India under taking), T. P. Nagar, Korba, District Korba (C.G) **---- Respondents**

For Petitioner	:	Mr. Sanjay Patel, Advocate.
For Respondents	:	Mr. Anand Shukla, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/07/18

1. This writ petition is directed against the proceeding initiated by the respondent – Bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter called, 'Act of 2002').

2. Learned counsel for the petitioner would submit that the proceeding initiated by the respondent Bank is without jurisdiction and without authority of law and deserves to be set aside.

3. Learned counsel appearing for the respondent – Bank would submit that the remedy available to the petitioner is to file an application before the Debt Recovery Tribunal under Section 17 of the Act of 2002.

4. I have heard learned counsel for the parties.

5. In a recent decision delivered by the Supreme Court in the matter of **Authorized Officer, State Bank of Travancore and another v. Mathew K.C.**[1], the Supreme Court in paragraph 4 has held as under :-

> "**4.** The SARFAESI Act is a complete code by itself, providing for expeditious recovery of dues arising out of loans granted by financial institutions, the remedy of appeal by the aggrieved under Section 17 before the Debt Recovery Tribunal, followed by a right to appeal before the Appellate Tribunal under Section 18. The High Court ought not to have entertained the writ petition in view of the adequate alternate statutory remedies available to the Respondent. The interim order was passed on the very first date, without an opportunity to the Appellant to file a reply. Reliance was placed on the United Bank of India v. Satyawati Tandon and others[2] and General Manager, Sri Siddeshwara Cooperative Bank Limited and another vs. Ikbal and others[3]. The writ petition ought to have been dismissed at the threshold on the ground of maintainability. The Division Bench erred in declining to interfere with the same."

6. Since, the petitioner has an alternative efficacious remedy to file an application under Section 17(1) of the Act of 2002 before the Debt Recovery Tribunal and also in view of the decision of Supreme Court in the matter of *Authorized Officer, State Bank of Travancore* (supra), this Court is not inclined to entertain this writ petition. However, the petitioner would be at liberty to make an application before the Debt Recovery Tribunal in accordance with law.

7. As the interim order is operating in favour of the petitioner since

1 AIR 2018 SC 676
2 AIR 2010 SC 3413
3 2013 (10) SCC 83

27.03.2014, it will remain applicable for the period of two weeks to facilitate the petitioner to approach the Debt Recovery Tribunal.

8. With the abovestated observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

Priyanka