

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 637 of 2012**

- Jowakim, S/o late Shri Mohna Ram, aged about 40 years, Caste Uraon, Occupation Agriculturist, R/o Village Chandragarh, Police Station & Tahsil Rajpur, District Balrampur (CG)

---- Petitioner**Versus**

1. Branch Manager, Zila Sahakari Krishi Avam Gramin Vikas Bank, Branch Rajpur, District Balrampur (CG)
2. Chief Executive Officer, Zila Sahakari Krishi Avam Gramin Vikas Bank, Ambikapur (CG)
3. Manoj @ Kunwar Sai, W/o not known to the petitioner, Caste Uraon, Occupation Welder, at present R/o Village Rajpur, District Balrampur (CG)
4. Shaniuram, S/o Tijwa Uraon, Occupation Agriculturist, R/o Village Chatakur, Police Station & Tahsil Rajpur, District Balrampur (CG)
5. Siyaram, S/o Durjan Gond, R/o Village Bagadi, Police Station & Tahsil Rajpur, District Balrampur (CG)
6. State of Chhattisgarh, through the Secretary, Cooperative Department, DKS Bhawan, Raipur (CG)
7. The Sub-Registrar, Co-operative Societies, Ambikapur (CG)
8. Sales Officer, Zila Sahakri Krishi Avam Gramin Vikas Bank, Ambikapur (CG)
9. Police Station, Rajpur, through Station House Officer, Police Station Rajpur, District Balrampur (CG)

---- Respondent

For Petitioner : Shri Ajay Kumar Pandey, Advocate.
 For Respondents 1 & 2 : Shri Sunil Tripathi, Advocate.
 For Respondent/State : Shri Samir Behar, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****04/09/2018 :**

1. The petitioner would assail the proclamation for auction of his immovable property by the Sales Officer, District Cooperative and Rural Development Bank (now merged in the District Cooperative Krishi Evam Gramin Vikas Bank, Ambikapur).
2. The documents available on record would indicate that the petitioner's father Mohna Ram and one Shaniram jointly obtained finance to purchase tractor-trolley in the year 2004. Upon their failure to repay the loan amount, proceeding for recovery by auctioning tractor-trolley was initiated whereupon the petitioner raised an objection before the Deputy Registrar, Cooperative Societies, Ambikapur, who examined the matter and found that there is some doubt over the loan transaction, therefore, the matter needs to be investigated. The Deputy Registrar also cancelled the auction and directed initiation of departmental enquiry against the Branch Manager who disbursed the loan. In an enquiry conducted thereafter, statements of witnesses were recorded and eventually it was found vide Annexure-R/1-2-6 that the then Branch Manager has not committed any irregularity or illegality while granting loan, as the papers were signed by the petitioner's father Mohna Ram. The papers concerning loan advanced to Shaniram and Mohna Ram have also been filed along with return filed by the Cooperative Bank.
3. The documents Annexure-R/1-2 to Annexure-R/1-2-5 are the loan papers duly signed or thumb impressed by the petitioner's father Mohna Ram. Annexure-R/1-2-2 is an agreement over which the petitioner's father Mohna Ram has signed. In the first document, the petitioner's father has created mortgage of the property mentioned in the sale proclamation (Annexure-P/1).
4. In the above view of the matter, this Court cannot go behind the papers available proving the loan transaction between Shaniram and Mohna Ram

on the one side and the Cooperative Bank on the other side. If the petitioner's father has failed to repay the loan and the petitioner is in possession of the mortgaged property, he is bound by the mortgage created by his father and cannot take exception to the recovery proceeding drawn by the Bank. Insofar as, the order (Annexure-P/2) is concerned, the Deputy Registrar has nowhere held that the loan transaction was illegal or was outcome of fraud. He only raised some doubt over transaction, which was cleared after due enquiry, as also in the departmental enquiry proceeding drawn against the Branch Manager of the Bank.

5. The Writ Petition has no substance, the same deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve