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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 103 of 2018

Dhoopchand Yadav, S/o- Singhasan Yadav, aged about 50 years, R/o- Village Chhatamuda bypass chowk, Raigarh, Tehsil & District – Raigarh (C.G.)

---- Petitioner

Versus

1. Branch Manager, U.C.O. Bank, Zonal Office, Recovery Department Office- Aaithapali road, Sambalpur, Tehsil & District- Sambalpur (Odisha)
2. Branch Manager, U.C.O. Bank, Branch- Brajraj Nagar Office – Opposite Railway Station, Brajraj Nagar, Tehsil – Brajnagar, District – Jharsugda (Odisha)
3. Admin, Summer Enterprises (U.C.O. Bank, Loan Amount Recovery) Office- Near Pahaad Mandir, Chakradhar Nagar, Raigarh, Tehsil & District 0 Raigarh (C.G.)

---- Respondents

For Petitioner : Shri Amit Sharma, Advocate.
For Respondents : Shri Ravindra Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/01/2018

(1) In an auction sale held by respondents No. 1 & 2– UCO Bank in accordance with the provision of Securtisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short 'SARFAESI Act'), the petitioner is said to have purchased the subject property. It is the case of the petitioner that amount of Rs.22,70,000/- is finalised for the above-stated property but the said amount is not being accepted by the respondents-Bank and further amount is being sought, against which instant writ petition has been filed questioning the same.

(2) Learned counsel for the petitioner would submit that remedy of auction purchaser is to file an application under Section 17(1) of SARFAESI Act.

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

(4) In the matter of **Agarwal Tracom Pvt. Ltd. V. Punjab National Bank and others**[1], their Lordships of the Supreme Court have held that auction purchaser falls within the expression 'any person' under Section 17(1) of the SARFASI Act to challenge the auction, if any. Relevant paragraphs of the report state as under:-

> "34. In the light of foregoing discussion, we are of the considered opinion that the Writ Court as also the Appellate Court were justified in dismissing the appellant's writ petition on the ground of availability of alternative statuory remedy of filing an application under Section 17(1) of SARFASI Act before the concerned Tribunal to challenge the auction of the PNB in forfeiting the appellant's deposit under Rule 9(5) . We find no ground to interfere with the impugned judgment of the High Court."

(5) In view of the aforesaid legal position, the writ petition as framed and filed is not maintainable and accordingly the same is liable to be and is hereby dismissed. However, the petitioner is at liberty to file applcation under Section 17(1) of SARFASI Act before the concerned Tribunal.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

1 AIR 2017 SC 5562