

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.477 of 2018

1. M/s. Yogesh Traders, Proprietor, Smt. Reeta Agrawal, W/o Ghanshyam Agrawal, aged about 57 years
2. Ghanshyam Agrawal, S/o Omkarmal Agrawal, aged about 61 years.

Both R/o Azad Market, Station Road, Raipur, District Raipur (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, through the Collector and District Magistrate, Raipur, District Raipur (C.G.)
2. Prescribed Officer and Chief Manager, Bank of India, Zonal Office – Raipur, Zone, G.D. Sheh Nilayam, Kankali Para Road, Tatyapara, Raipur, District Raipur (C.G.)
3. Prescribed Officer, Bank of India, Devendra Nagar Branch, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioners: Mr. T.K. Jha, Advocate.

For Respondent No.1/State: -

Mr. Arun Sao, Deputy Advocate General.

For Respondents No.2 and 3: -

Mr. Anand Shukla, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/03/2018

1. Heard.
2. The District Magistrate, Raipur, in exercise of jurisdiction under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') passed an order directing taking possession of secured asset by order dated 31-7-2017 which was challenged by the petitioners in W.P.(C)No.2629/2017 and which was allowed by this Court and that order was quashed holding that proviso to Section

14(1) of the SARFAESI Act was not complied with and consequentially, the order directing taking possession of secured asset was quashed. The matter was restored to the file of the District Judge, Raipur and the District Judge on 22-11-2017 issued notices to the petitioners herein and the petitioners were served on 6-12-2017 and they appeared on 11-12-2017 before the District Magistrate in which the learned District Magistrate granted time up to 14-12-2017 for filing reply and the matter was fixed for orders on 19-12-2017. On 19-12-2017, counsel for the petitioners herein again prayed for time. Since the case was fixed for arguments, the Court granted time during the course of the day to file reply, but no reply was filed and ultimately, the District Magistrate passed order on 19-12-2017 granting application under Section 14 of the SARFAESI Act and feeling aggrieved against that order, this writ petition has been filed.

3. Learned counsel for the petitioners submits that no sufficient time was granted to the petitioners to file reply to the application under Section 14 of the SARFAESI Act and therefore the impugned order be set aside and time be granted to the petitioners to file reply to the application under Section 14 of the SARFAESI Act.
4. Learned counsel for respondents No.2 and 3 would submit that sufficient time has already been granted to the petitioners and the petitioners were well aware about the steps to be taken pursuant to the order dated 10-10-2017, but the petitioners did not file reply even though notices were served on 6-12-2017, as such, on 19-12-2017, time was granted to the petitioners to file reply but they did not file reply and when adverse order has been passed, the instant writ petition has been filed merely to secure further time, therefore, no

further time can be granted to the petitioners.

5. The petitioners were served with notice on 6-12-2017. On 11-12-2017, time was extended up till 14-12-2017 while fixing the case for order. The petitioners did not comply the order and again on 19-12-2017, without assigning any reason, sought for time which was extended fairly by the District Magistrate to file reply during the course of the day, but they did not avail the second opportunity also and filed this writ petition claiming that no time has been granted to file reply. Time line has been provided in Section 14 of the SARFAESI Act to dispose of the application under Section 14 of the SARFAESI Act with an avowed object to conclude the proceeding initiated under the said Act. The petitioners are rank defaulters in complying the order of the authority, as despite opportunity having been granted, they did not avail the opportunity. Time cannot be extended indefinitely and that too without any reason apparent on the face of record as such, I do not find any merit in the writ petition. The writ petition deserves to be and is hereby dismissed leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge