

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.542 of 2018

1. M/s Atharva Infrastructure, Represented by its partners Mrs. Prajakta Tushar Wadhavkar, Office at 401, Matrichhaya Apartment, Priyadarshni Nagar, Ring Road No.1, Raipur 492001, Chhattisgarh.
2. Smt. Prajakta Tushar Wadhavkar, W/o Mr. Tushar Wadhavkar, Aged about 40 years, Office at 401, Matrichhaya Apartment, Priyadarshni Nagar, Ring Road No.1, Raipur, 492001, Chhattisgarh.
3. Smt. Aditi Abhijeet Shah, W/o Mr. Abhijeet Shah, Aged about 39 years, Office at 401, Matrichhaya Apartment, Priyadarshni Nagar, Ring Road No.1, Raipur, 492001, Chhattisgarh.
4. Mr. Abhijeet Shah, S/o Mr. Jagdish Rameschandra Shah, Aged about 49 years, Office at 401, Matrichhaya Apartment, Priyadarshni Nagar, Ring Road No.1, Raipur, 492001, Chhattisgarh.
5. Mr. Tushar Wadhavkar, S/o Mr. Ashok Wadhavkar, Aged about 45 years, Office at 401, Matrichhaya Apartment, Priyadarshni Nagar, Ring Road No.1, Raipur, 492001, Chhattisgarh.

---- Petitioners

Versus

Corporation Bank, Through its Authorised Officer, Main Branch, Rajbandha Maidan, Raipur, District Raipur, Chhattisgarh.

---- Respondent

For Petitioners: Mr. Satish Agrawal and Mr. Ankit Singhal, Advocates.
 For Union of India: Mr. B. Gopa Kumar, Assistant Solicitor General of India.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board26/02/2018

1. Heard on admission.
2. This writ petition is directed complaining that though the matter was listed before the Debts Recovery Tribunal at Jabalpur on 20-2-2018, but the application for staying the auction was listed on 21-2-2018 and on that day, the presiding officer was not available, therefore, the matter was adjourned for 27-2-2018, as the presiding officer proceeded on leave for seven days (from 21-2-2018 to 27-2-2018).

Meanwhile, auction of the property has taken place on 21-2-2018 and sale is likely to be confirmed and if sale is confirmed and sale certificate is issued, the petitioners will suffer irreparable loss and it will be a case of failure of justice, as the application will become infructuous not being heard and thus, there will be failure of justice.

3. This Court has directed Mr. B. Gopa Kumar, Assistant Solicitor General of India, to seek instructions as to why the alternative arrangement has not been made. On instructions, he submits that the presiding officer is on leave for seven days from 21-2-2018 to 27-2-2018 and normally, if the leave period of the presiding officer (DRT) is more than 15 days, then only alternative arrangement is made by the Debts Recovery Appellate Tribunal.
4. Since the petitioners' substantive application for staying the sale of auction is pending consideration and the presiding officer proceeded on leave for one week and auction sale is likely to be confirmed, in the mean while, it is directed that pursuant auction, sale certificate be not issued till the petitioners' application for stay of auction is taken-up by the DRT. The said application shall be taken up by the DRT on the first available date the presiding officer is available. The respondent Bank is at liberty to make application for modification of the order, if any.
5. In view of the fact-situation of the instant case which has been noticed herein-above, I fervently hope and trust that the Central Government or the appropriate authority will consider the non-availability of presiding officer (DRT) and even if the presiding officer is on leave for shortest period of time, they will take proper steps to make appropriate alternative arrangement to hear the urgent cases pending

or to be filed during the period of leave of the presiding officer so that the consumers of justice may not suffer and may not be required to run from pillar to post. It is also expected from the presiding officer of the DRT to inform the same to the Central Government or the appropriate authority enabling them to make alternative arrangement for even shortest period of their absence, well in advance.

6. A copy of this order be sent to the Secretary, Ministry of Finance, Government of India, New Delhi, for information and further needful action.
7. With the aforesaid observations, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge