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HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 186 of 2018****(Arising out of order dated 15.02.2016 passed in W.P.(C) No.408 of 2018 by the learned Single Judge)**

- Vinod Kumar Lalwani, S/o Late Thwar Das Lalwani, aged about 39 years, R/o 14 Raipur Naka, Sindhi Colony, Durg, Tahsil – Durg, Civil and Revenue, District Durg (C.G.)

---- Appellant**Versus**

1. Union Bank of India Durg, District Durg, Chhattisgarh
2. M/s Ambika General Stores R/o 14 Raipur Naka, Sindhi Colony, Durg, Tahsil and District Durg, Chhattisgarh
3. Mukesh Lalwani S/o Late Thwar Das Lalwani Aged About 41 Years R/o 14 Raipur Naka, Sindhi Colony, Durg, Tahsil Durg, Civil And Revenue District Durg, Chhattisgarh
4. Rajesh Kumar Lalwani S/o Late Thwar Das Lalwani Aged About 45 Years R/o 14 Raipur Naka, Sindhi Colony, Durg, Tahsil Durg, Civil, Revenue District Durg, Chhattisgarh
5. Naresh Kumar Lalwani S/o Late Thwar Das Lalwani Aged About 43 Years R/o 14 Raipur Naka, Sindhi Colony, Durg, Tahsil Durg, Civil, Revenue District Durg, Chhattisgarh

---- Respondents

For Appellant : Shri Dharmesh Srivastava, Advocate.

For Respondent No.1 : Shri Anil Pandey, Advocate.

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice Sharad Kumar Gupta****Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****02.05.2018**

1. This appeal is against the order of the learned Single Judge refusing to interfere with the proceedings of District Magistrate under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002; hereinafter referred to as 'SARFAESI Act'.
2. Under challenge before the learned Single Judge was the decision of ordering the impleadment of the representatives of the estate of the deceased debtor.

3. Learned counsel for the Appellant argued that his client filed objections to the application before the District Magistrate for impleadment of the legal representatives.
4. We are unable to uphold the plea on behalf of the Appellant because, as already noted above, the estate of the deceased debtor having been represented by all or any of the legal representatives, proceeding before the District Magistrate could be concluded without prejudice to the rival claims *inter-se* the testamentary and non-testamentary heirs even if there is a Will.
5. It appears that there could be controversy between the testamentary and non-testamentary heirs of the late debtor. That is not an issue which could have been gone in a proceeding under the SARFAESI Act by the District Magistrate. The question of succession is not the prime issue. All that is required is due representation of the estate for the purpose of legal action. The estate is now represented by legal representatives of the deceased debtor and therefore, the learned Single Judge was abundantly justified in dismissing the writ petition without touching on any rival claims as to the testamentary and non-testamentary heirship.
6. We also record the submission on behalf of the Respondent-Bank that final order under Section 14 of the SARFAESI Act has already been issued by the District Magistrate.
7. We, therefore, do not see any illegality or jurisdictional error in the order of the learned Single Judge. We see no ground to interfere with the impugned order of the learned Single Judge passed in the writ petition. This intra Court appeal, therefore, fails and the same is accordingly dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge