

HIGH COURT OF CHHATTISGARH, BILASPUR
WPC No.2017 of 2017

State Bank of India, (A Banking Company incorporated and constituted under the State Bank of India Act, 1955) Through its authorized officer-cum-Chief Manager, Kishore Kumar Mall S/o Late Shri S.L. Mall, aged about 59 years, SARB Sector-1, Bhilai, District Durg (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through the District Magistrate Durg, District Durg (CG)
2. The District Magistrate Cum Collector Durg, District Durg (CG)
3. Shri Amit Kumar Shrivastava S/o Shri Satyendra Prakash Shrivastava, Aged about 45 years, R/o HIG-6, Maitri, Viher (Old HCL Colony) Near Radhika Nagar, Bhilai, District Durg (CG)
4. Smt. Neeta Shrivastava W/o Shri Amit Kumar Shrivastava, Aged about 40 years, R/o HIG-6, Maitri, Viher (Old HCL Colony) Near Radhika Nagar, Bhilai, District Durg (CG)

---- Respondents

For Petitioner	:	Mr.P.R.Patanker, Advocate
For Respondents No.1&2	:	Mr.Anand Dadariya, Dy.G.A.
For Respondents No.3&4	:	None present though served

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15/03/2018

1. The petitioner-Bank preferred an application under Section 14 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (hereinafter called as "the SARFAESI Act") seeking assistance to take possession of secured assets. Learned District Magistrate has rejected that application on the ground that the property is question is attached under Section 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005 (hereinafter called as "the Act of 2005").
2. Learned counsel for the petitioner would submit that Section 14 of

the SARFAESI Act does not bar taking over the possession of such property if it is attached under the Act of 2005.

3. On the other hand, learned Deputy Government Advocate for respondents No.1 and 2 would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also gone through the records with utmost circumspection.
5. It is true that the property in question has been attached under the provisions of the Act of 2005, but there is no provision brought to notice of this Court under the Act of 2005 by which proceeding under Section 14 of the SARFAESI Act is barred. Unless the proceeding is expressly barred under the Act of 2005, an application under Section 14 of the SARFAESI Act cannot be rejected.
6. In view of above, the impugned order is set aside. The matter is remitted to the District Magistrate, Durg for considering afresh as to whether the proceeding under the SARFAESI Act is barred if the property in question is attached under the Act of 2005 and thereafter to proceed strictly in accordance with law.
7. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge