

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.749 of 2016

1. M/s Hi-Tech Abrasives Ltd., A private company registered under the provisions of the Companies Act, 1956, having its registered office at M.I.G. 21, Indravati Colony, Raipur, Thana Civil Lines, Tehsil & District Raipur (C.G.), through its Director Mr. Pankaj Tekriwal.
2. Pankaj Tekriwal, S/o Shri Narayan Prashad Tekriwal, aged about 37 years
3. Smt. Shakuntala Devi Tekriwal, W/o Shri Narayan Prashad Tekriwal, aged about 60 years
4. Narayan Prashad Tekriwal, S/o Late Shri Nathmalram Tekriwal, aged about 60 years

All three R/o M.I.G. 21, Indravati Colony, Raipur, Thana Civil Lines, Tehsil & District Raipur (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through Secretary, Department of Revenue, Mahanadi Bhawan, Mantralaya, New Raipur (C.G.)
2. Collector and District Magistrate, Raipur, District Raipur (C.G.)
3. Axis Bank Ltd., Stressed Assets Management Branch, East Nagaland House, 7th Floor, 11 Shakespeare Sarani, Kolkata – 700 071 (West Bengal)
4. Tehsildar, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioners: Mr. Harsh Wardhan, Advocate.

For Respondents No.1, 2 and 4/State: -

Mr. Arun Sao, Deputy Advocate General.

For Respondent No.3: Mr. Shishir Dixit, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/07/2018

1. Learned counsel for the petitioners submits that the learned District Magistrate has passed order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002 (for short, 'the SARFAESI Act'), but the first proviso to Section 14 of the SARFAESI Act has not been complied with and no mandatory affidavit as required by 1st proviso has been filed, that vitiates the order Annexure P-9 passed by the learned District Magistrate.

2. Learned counsel appearing for respondent No.3 Bank submits that the Bank may be allowed to file mandatory affidavit before the District Magistrate and the matter be remanded for fresh consideration.
3. I have heard learned counsel for the parties.
4. Since it is a case where the mandatory affidavit as required by proviso to Section 14(1) of the SARFAESI Act has not been filed and it is mandatory in nature, the impugned order dated 31-1-2016 is set aside. The matter is remanded back to the District Magistrate, Raipur for hearing and considering the application under Section 14 of the SARFAESI Act afresh in accordance with law. The respondent Bank will be entitled to file mandatory affidavit as required under Section 14 of the SARFAESI Act.
5. With the aforesaid observation, the writ petition stands finally disposed off. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge