

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 644 of 2018

- Saritha Sharma D/o Shri Madanlal Sharma Aged About 48 Years W/o Shri Manik Sharma, R/o Room No.2, First Floor, Central Dining Hall, Dimar, Satya Vihar Campus, Raipur, District- Raipur, Chhattisgarh

---- Appellant

Versus

1. Central Bank of India Through Its Branch Manager/authorised Officer, Fafadih Branch, Raipur District- Raipur, Chhattisgarh
2. District Magistrate O/o District Magistrate, Raipur, District- Raipur, Chhattisgarh
3. Disha Education Society Through Its Authorized Person, R/o Disha Crown, Kachna Road, Shankar Nagar, Raipur, Tahsil And District- Raipur, Chhattisgarh
4. Pancham Sales Private Limited Through Its Director Shri Harsh Agrawal, Aged About 30 Years, S/o Shri Rajkumar Agrawal, R/o H.No. J-01, Green Arcade, Dal-Dal Seoni, Mowa, Raipur, Tehsil And District- Raipur, Chhattisgarh
5. M/s Sylva Goods Pvt. Ltd. Address- Office No. 02, Barrato Lane, 1st Floor, Room No. 104, Kolkata, West Bengal

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For Appellant	: Shri Amit Sahni and Shri K. Rohan, Advocates
For Respondent No.1	: Shri Anand Shukla, Advocate
For Respondent No.2/State	: Shri U.N.S. Deo, Government Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per, Ajay Kumar Tripathi, Chief Justice

29.08.2018

1. The question of law which has been raised in this appeal preferred against an impugned order dated 30.07.2018 passed by the learned Single Judge in WP(C) No. 2114 of 2018 is whether he has taken a correct view by directing the tenant to approach the Debts Recovery Tribunal (DRT) in terms of the amended provisions as it stands under Section 17 (4A) of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act').

2. An identical matter arose before this Court in Writ Appeal No. 321 of 2017 where the same learned Single Judge's order passed in similar circumstances was subject matter of argument before the Division Bench.
3. A detailed order which is a reasoned order has been passed upholding the view taken by the learned Single Judge that the remedy for a tenant when a proceeding is initiated under the SARFAESI Act will be under the newly amended statutory provision under Section 17 (4A) of the SARFAESI Act.
4. The rationale and reasoning which have been provided by the Division Bench in its order dated 07.08.2018 also applies to the present case.
5. Dismissal of the appeal, however, in no manner comes in the way of any finding which has been given by the learned Single Judge on the defence which the tenant would like to put up before the DRT. It is clarified that the merit of the position, legal as well as factual, will have to be required to be dealt with by the DRT on the inputs and stands that may taken by such a claimants or applicant.
6. The appeal stands dismissed with the observation as above.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge