

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2921 of 2018**

1. Smt. Sarita Sinha D/o Parasnath Sinha Aged About 40 Years
2. Nishant Ambast S/o Annup Sinha Aged About 30 Years

Both are R/o Near Pahuna Shop, Trikon Chowk, Kedarpur,
Ambikapur, Tahsil Ambikapur, District Surguja Chhattisgarh.,

---- **Petitioner****Versus**

- Central Bank Of India Through Its Authorized Authority, Main Branch Ambikapur, District Surguja Chhattisgarh.

---- **Respondent**

For Petitioner
For Respondent

Mr. DN Prajapati, Advocate
Mr. Anand Shukla, Advocate

Order On Board By**Hon'ble Mr. Justice Prashant Kumar Mishra****22/10/2018**

1. Heard.
2. The impugned auction notice-Annexure P/1 has been issued by the respondent-Bank under Rule 8 of the Rules framed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "the Act, 2002"), against which, the petitioners have remedy of preferring an appeal under Section 17 of the Act, 2002 before the jurisdictional DRT.

3. In the matter of **ICICI Bank Ltd. Etc. Etc. Vs. Umakanta Mohapatra Etc. Etc.** in Civil Appeal No.10243-10250 of 2018, decided on 5.10.2018, the Supreme Court has observed thus :

“ Delay condoned.

Leave granted.

Despite several judgments of this Court, including a judgment by Hon'ble Mr. Justice Navin Sinha, as recently as on 30.01.2018, in *Authorized Officer, State Bank of Travancore and Anr. Vs. Mathew K.C., (2018) 3 SCC 85*, the High Courts continue to entertain matters which arise under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI), and keep granting interim orders in favour of persons who are Non-Performing Assets (NPAs).

The writ petition itself was not maintainable, as a result of which, in view of our recent judgment, which has followed earlier judgments of this Court, held as follows :-

“18. We cannot help but disapprove the approach of the High Court for reasons already noticed in *Dwarikesh Sugar Industries Ltd. Vs. Prem Heavy Engineering Works (P) Ltd. And Another, (1997) 6 SCC 450*, observing :-

“32. When a position, in law, is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts

including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops."

The writ petition, in this case, being not maintainable, obviously, all orders passed must perish, including the impugned order, which is set aside.

The appeals are allowed in the aforesaid terms.

Pending applications, if any, shall stand disposed of."

4. In view of the above, the present writ petition is dismissed, as not maintainable reserving liberty in favour of the petitioners to prefer a duly constituted appeal before the jurisdictional DRT.

Sd/-

(Prashant Kumar Mishra)

Judge

Shyna

