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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1692 of 2015

- Jayshree Balaji Education Society, Through Its Secretary, Dr. Badrinath Patnaik, S/o Shri Banwas Patnaik, Aged About 48 Years, City Office- G.E. Road, Kusum Bhawan, Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

1. Oriental Bank Of Commerce, Through Managing Director And Chief Executive Officer, Headquarter Corporate Office, Plot No. 5, Institutional Area, Sector- 32, Gurgaon (Haryana) Pin Code- 122001.
2. Regional Manager, Oriental Bank Of Commerce, 2nd Floor, Jeet Towers, Opp. Raj Kumar College, G.E. Road, Raipur, Chhattisgarh Pin Code- 492013.

---- Respondents

WPC No. 2149 of 2015

- Jayshree Balaji Educational Society, Through Its Secretary, Dr. Badrinath Patnaik S/o Shri Banwas Patnaik, Aged About 48 Years, City Office G.E. Road, Kusum Bhawan, Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

1. Oriental Bank Of Commerce, Through Its Regional Manager, Oriental Bank Of Commerce, 2nd Floor, Jeet Towers, Opp.

Raj Kumar College, G.E. Road, Raipur Chhattisgarh.

2. The Branch Manager, Oriental Bank Of Commerce, Sadar Bazar, Rajnandgoan Chhattisgarh.
3. The District Magistrate, Rajnandgaon Chhattisgarh.

---- Respondents

For Petitioner	: Shri Manish Nigam, Advocate
For Respondent-State	: Shri Rahul Jha, GA
For Respondent-Bank	: Shri Anshuman Shrivastava, Advocate

Order On Board By

Hon'ble Justice Shri Prashant Kumar Mishra

19/02/2019

1. In WPC No.2149/2015, petitioner would assail the final order passed by the District Magistrate on 29.10.2015 in exercise of powers under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (henceforth 'the Act, 2002'). In WPC No.1692/2015, petitioner would pray for a direction to the respondents to decide petitioner's representation for one time settlement towards payment of the term loan amount.
2. Since, the order under Section 14 of the Act, 2002 has already been passed against the petitioner, the first petition i.e. WPC No.1692/2015 has rendered infructuous. It is

accordingly dismissed as infructuous.

3. Insofar as the second petition is concerned, it is settled that the petitioner has alternative remedy of moving an appeal before the jurisdictional Debt Recovery Tribunal (DRT) under Section 17 of the Act, 2002. In the matter of **ICICI Bank Ltd. v. Umakanta Mohapatra**, the Supreme Court has held thus in paras 3 to 5:-

3. 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).
4. 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.””

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

4. In view of the law laid down by the Supreme Court, the appropriate remedy for the petitioner to challenge the District Magistrate's order under Section 14 of the Act, 2002 is to move an appeal before the DRT. Let the petitioner avail the alternative remedy within a period of 30 days from today. The interim relief granted earlier in favour of the petitioner shall continue only for a period of 30 days from today. If the petitioner moves an application for interim relief before DRT, the same shall be considered in accordance with law, on its own merits, without being influenced by the interim order allowed by this Court.

Sd/-
Prashant Kumar Mishra
Judge

Ankit