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HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No.48 of 2019

Naval Kishore Choudhary, S/o Padmashankar Choudhary, aged about 29 years, R/o Village Belmundi, Post Chattigirola, Tahsil Saraipali, District Mahasamund (C.G.)

---- Petitioner

Versus

1. Central Bank of India, Banking Company (Upkramo Ka Arjan and Antaran) Adhiniyam V, 1970 Ke Tahat Gathit Ek Nigmit Nikay Hai, Head Office situated at Chandramukhi Bhawan, Nariman Point, Mumbai, and Out of many branches, one Branch is situated at Baloda, Tahsil Saraipali, District Mahasamund (C.G.)

2. Padmashankar Choudhary, S/o Late Narendra Choudhary, R/o Village Belmundi, Post Chattigirola, Tahsil Saraipali, District Mahasamund (C.G.)

---- Respondents

For Petitioner: Mr. Raghavendra Pradhan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/06/2019

1. Heard on admission and grant of stay.

2. By the impugned order, the petitioner's application filed under Order 7 Rule 11 of the CPC has been rejected.

3. Learned counsel for the petitioner submits that the impugned order is unsustainable and bad in law, as the suit is hit by Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

4. I have considered the submission of learned counsel for the petitioner and went through the record with utmost circumspection.

5. Central Bank of India filed a suit for recovery of ₹ 9,81,806/- from the petitioner / defendant in which the petitioner preferred an application under Section 34 of the SARFAESI Act.

6. Section 34 of the SARFAESI Act states as under: -

> "**34. Civil court not to have jurisdiction**.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993)."

7. Neither in the application under Order 7 Rule 11 of the CPC nor in the instant civil revision filed before this Court, the petitioner is able to demonstrate that the suit is barred by Section 34 of the SARFAESI Act, as the suit is apparently a suit for recovery of the amount which was said to have been borrowed to the petitioner. I do not find any merit in the civil revision, it deserves to be and is accordingly dismissed summarily without notice to the other side. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

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