

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2123 of 2019**

1. Rajesh Soni S/o Shri Jankilal Soni Aged About 51 Years R/o Near Manav Mandir Chock, Tehsil And District- Rajnandgaon, Chhattisgarh.- 491441
2. Seema Soni W/o Shri Rajesh Soni, Aged About 49 Years R/o Near Manav Mandir Chock, Tehsil And District- Rajnandgaon, Chhattisgarh.- 491441.

---- Petitioners**Versus**

1. Reliance Home Finance Limited Through Its General Manager Registered Office, The Ruby, 11th Floor, North West Wing, Plot No. 29, JK Sawant Marg, Dadar (West), Mumbai.- 400028
2. Zonal Manager, Reliance Home Finance Limited, Thapar House, 5th Floor, Beside PSC Building, 163, S.P. Mukherjee Road, Mudiali, Kolkata- 700026.
3. Branch Manager/Recovery Manager Reliance Home Finance Limited, Branch Office-Simran Tower, 3rd Floor, Opposite L.I.C. Building, Pandari, Chhattisgarh.- 492004, Chhattisgarh
4. State Of Chhattisgarh Through Collector, District- Rajnandgaon, Chhattisgarh.
5. State Of Chhattisgarh Through Tehsildar, District- Rajnandgaon, Chhattisgarh.

---- Respondents

For Petitioners : Shri Amit Buxy, Advocate

For Respondents : Shri Sudeep Verma, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****28/06/2019**

1. The present petition is with the following relief.

"10.1 This Hon'ble Court may kindly be pleased to call for the relevant records from the court below pertaining

to the case for the petitioner for its kind perusal leading to passing of the impugned notice.

10.2 This Hon'ble Court may kindly be pleased to set aside the Possession notice dated 20/09/2017 (Annexure P/2) and notice dated 11/06/2019 (Annexure P/1) and further consequential proceedings.

10.3 That this Hon'ble Court may kindly be pleased to issues a writ and /or an order in the nature of writ of mandamus to direct the respondent company to abide with the principles of natural justice and thereby settle all the liabilities regarding the loan account and stop recovery proceedings.

10.4 Cost of the Petition may also be awarded.

10.5 Any other order that this Hon'ble Court deem fit and proper in the facts and circumstances of the case may kindly be passed."

2. Learned counsel for the petitioners submits that the petitioners have obtained a loan of Rs.13,300,000/- and out of the total loan amount Rs.74 Lakhs were paid as installment, however, some default was made which led to recovery proceedings under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for short 'the SARFAESI Act') and thereafter the measures under Section 14 of the SARFAESI Act were also availed. Learned counsel would further submit that in between there had been frequent meetings took place in between the petitioner and the respondent officials and it was agreed that on the subject property on which loan was obtained a commercial complex may be developed and it was principally agreed so that the money is recovered. It is further contended that thereafter despite the same arrangements have been mutually principally agreed but on the other hand

the respondents are proceeding with the recovery measures to take the possession of the subject property. He would further submit that under these circumstances the petitioner have already filed a representation wherein these facts have been highlighted. The only prayer which is made before this Court that the respondents may be directed to consider their representation so made.

3. Be that as it may, the submission made by learned counsel for the petitioners appears to be reasonable. If certain arrangements have principally been agreed or if certain efforts are going on to improve the property for recovery then the same may not cause any harm as it may eventually result in recovery. Under these circumstances, it is directed that the respondents shall decide the representation of the petitioners so made within a further period of 30 days and during such representation is decided the respondents shall not resort to coercive method of recovery. Subsequently, as has been enumerated the respondent shall be free to evoke their recovery procedure as available to them under the law.
4. With such observation the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Jyoti