

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 807 of 2015

Mrs. Polly Chakraborty W/o Dr. Achinto Chakraborty Aged About 47
Years R/o F-6, B-2, 3rd Floor, Shriram Towers, Vyapar-Vihar,
Bilaspur, PS Civil Line, Bilaspur, District Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Chairman & Managing Director, Punjab National Bank, 4th Floor,
5 Sansad Marg, New Delhi-7
2. Regional Manager, Punjab National Bank, Circle Office, Pandri,
Raipur Chhattisgarh
3. Branch Manager/Authorized Officer, Punjab National Bank,
Budhwari Bazar Branch Behind Railway Post Office, Bilaspur
Chhattisgarh

--- Respondents

For petitioner – Shri Saleem Kazi and Shri Faiz Kazi, Advocates.
For respondents - Shri S.S. Rajput, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

01/08/2019

Heard.

1. Instant petition is against the issuance of notice Annexure P-1 which was issued under section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act of 2002').
2. Learned counsel for the petitioner would submit that the issuance of notice under section 13 (2) of the Act of 2002 was illegal. The petitioner though had obtained loan but has repaid most of the amount and the bank has charged exorbitant interest which the petitioner was not liable to pay. It is further contended that as per Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as 'the Act of 1993') the amount of loan being shown Rs.9,14,886/- that is below 10 lakhs, respondent could not have approached the Debts Recovery Tribunal. He further submits that therefore the illegality cannot be justified.

3. Per contra, learned counsel for the respondents would submit that after issuance of notice under section 13 (2) of the Act of 2002, subsequent proceeding under section 13 of the Act of 2002 has not culminated and in the meanwhile the petitioner has approached this court and the respondent has filed original application under section 19 of the Recovery of Debts and Bankruptcy Act, 1993 wherein decree has been passed by the Debts Recovery Tribunal as per Annexure R-1 dated 7th September, 2017, therefore instant petition is not maintainable.

4. Perused the documents filed along with the petition. Along with the reply order of the Debts Recovery Tribunal, Jabalpur dated 7th September, 2017 is on record which shows that decree of Rs.18,31,958/- has been passed by the Debts Recovery Tribunal, Jabalpur. Even against Section 13 under the Act of 2002 remedy of appeal is provided under Section 17 before the Debts Recovery Tribunal, that measure have not been taken by the petitioner. Further decree of Debts Recovery Tribunal passed under the Act of 1993 dated 7th September, 2017 is on record. Petitioner therefore has an alternative remedy of filing appeal before the Debts Recovery Tribunal.

5. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE