

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 1687 of 2020

1. Jigeshwar Prasad Deshmukh S/o Dev Singh Deshmukh, Aged About 42 Years R/o Kotgaon, Thasil - Gunderdehi, District - Balod Chhattisgarh.
2. Dev Singh S/o Ramhokormi Deshmukh Aged About 80 Years R/o Kotgaon, Tahsil - Gunderdehi, District - Balod Chhattisgarh.

---Petitioner(s)

Versus

1. Authorized Officer, Bank of Baroda, Padmanabhpur Branch, District - Drug Chhattisgarh.
2. District Magistrate, Balod, District Balod Chhattisgarh.

---Respondents

For Petitioner	:	Shri T.K. Jha, Advocate.
For State	:	Ms. Sunita Jain, Govt. Advocate.
For Respondent No. 1	:	Shri Ankit Singhal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05.08.2020

1. The challenge in the present writ petition is to the order dated 25.03.2019 (Annexure P/4) passed by the Collector-cum-District Magistrate, Balod in a case No.09/B-121/2018-19. The order is one which has been passed at the behest of the respondent who have moved an application under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, the Act, 2002).
2. At the outset, this court is of the opinion that the writ petition is not sustainable on two counts, firstly the impugned order is one which has been passed on 25.03.2019 and the present writ petition is being filed after more than 1 and ½ years i.e. on 04.08.2020. No plausible explanation has been provided for the delay in filing the writ petition. The second ground on which the writ petition is not sustainable is that of having a statutory alternative remedy available to the petitioner under

Section 17 of the Act, 2002, which provides for preferring an application before the concerned Debts Recovery Tribunal (in short, DRT).

3. Though the counsel for the petitioner in support of the alternative remedy point has relied upon a judgment of Supreme Court in case of **Harshad Govardhan Sondagar Vs. International Assets Reconstruction Co. Ltd. And Others**, 2014(6)SCC1, however this court is of the opinion that the provisions of the Act, 2002 itself stood substantially amended subsequently in the year 2016. That thereafter the Supreme Court had an occasion for dealing with a similar issue of alternative remedy in **Hindan Forge Private Limited & Anr. Vs. State of U.P. and Another**, 2019(2)SCC198 wherein the Supreme Court had categorically held that the remedy against an order under Section 14 of the Act, 2002 would be only that of preferring an appropriate application under Section 17 before the concerned Debts Recovery Tribunal.
4. This court also relying upon the same judgment of the Supreme Court in case of Hindan Forge (Supra) in WPC No.36 of 2020 had dismissed another similar writ petition on the ground of having statutory alternative remedy decided on 14.01.2020. In view of the aforesaid facts this court is of the opinion that the present writ petition also would not be maintainable at this juncture before this court.
5. Accordingly, reserving the right of the petitioner to avail the appropriate remedies, if permissible under the law, the present writ petition stands rejected.

Sd/-
(P. Sam Koshy)
Judge