

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2225 of 2020**

1. Vishal Chopra S/o Late Shri S.N. Chopra Aged About 52 Years R/o 8, State Bank Colony, Near Sai Mandir, Tagore Nagar, Raipur.
2. M/s Chopra Trading Company Through Vishal Chopra, Chopra Chashma Ghar, Raipur Chhattisgarh, R/o 8, State Bank Colony, Near Sai Mandir, Tagore Nagar, Raipur.
3. Smt. Deepali Chopra W/o Vishal Chopra Aged About 49 Years R/o 8, State Bank Colony, Near Sai Mandir, Tagore Nagar, Raipur.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Collector Cum District Magistrate, Raipur District Raipur Chhattisgarh.
2. The Authorized Officer Shriram City Union Finance Limited, Branch Office, Near Mandi Gate, Vidhan Sabha Road, Pandri, Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Prafull N. Bharat, Adv.
For State	:	Shri Vivek Ranjan Tiwari, Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****23/09/2020**

1. The challenge in the present writ petition is to the proceedings under Section 14 of the SARFAESI Act passed by the District Magistrate, Raipur dated 02.03.2020.
2. At the outset, this Court is of the opinion that in view the settled legal position of law, that the writ petition under Article 226 of the Constitution of India not being maintainable when there is a remedy under Section 17 available to the petitioner, this Court is reluctant to entertain the writ petition.

3. At this juncture, the Counsel for the petitioner submits that he is quite aware of the alternative remedy that the petitioner has but the fact that he has come to the High Court invoking the extra ordinary writ jurisdiction, is that the Debts Recovery Tribunal at Jabalpur is not functional on account of non availability of a presiding officer. He further submits that even the applications which are filed before the Bench at Jabalpur are being heard by the Presiding Officer of the Debts Recovery Tribunal, Cuttack and that the bench at Cuttack is not taking up the matters from Jabalpur Bench at regular interval, even in urgent matters dates are being provided after a couple of months. The interest of the petitioner in the meanwhile would get defeated, if the writ petition is not entertained at this juncture and some limited protection is not granted to the petitioner till the matter is taken by the concerned Bench of DRT, Cuttack.
4. Given the said case, and conscious of the fact that this Court otherwise not having the power as a matter of routine to entertain petitions where the challenge is to an order passed u/s 14 of SARFAESI Act, however in the precarious condition prevailing, if the writ petition is not entertained, the petitioner's interest would get defeated, he would be rendered remedy less for ventilating his grievances particularly when the statutes provides for one.
5. Under the circumstances, the present writ petition is disposed of directing the petitioner to file an application under Section 17 before the concerned Bench of the DRT along with an application for the matter to be taken up on interim application at Cuttack within a period of 15 days from the date of receipt of copy of this order. At the same time, the

petitioner shall also make all endeavors requesting the Bench of the DRT at Cuttack for taking up the matter out of turn on priority basis.

6. Till the interim application of the petitioner is considered by the Bench of DRT Cuttack, the respondents are restrained from initiating any coercive steps against the petitioner.
7. With the aforesaid observation/direction, the present writ petition accordingly stands disposed of.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha