

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2420 of 2020**

Sahista Parven, Wd/o Late Afroj Aalam, Aged About 32 Years R/o Ward No. 26, Noori Chowk Gaji Nagar, Birgaon, Raipur District - Raipur Chhattisgarh

---- Petitioner**Versus**

1. Bank Of Baroda, Through - Chief Manager, Bank Of Baroda, Rawabhatha, Birgaon Branch, Raipur, District - Raipur Chhattisgarh
2. Divisional Manager, Bank Of Baroda, Divisional Office, Raipur, District - Raipur Chhattisgarh
3. Branch Manager, Bank Of Baroda, Rawabhatha, Birgaon Branch, Raipur, District - Raipur Chhattisgarh
4. The Oriental Insurance Company Limited, Through Regional Manager, 1st Floor, R.K.Plaza, Ring Road, Panchpedi Naka, Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Priyanshu Gupta, Advocate
For Respondent/s	:	Mr. Ankit Singhal, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

19/10/2020

1. The challenge in the present writ petition is to the impugned notice dated 19.10.2019 issued by the respondent No.1 under the provisions of Sarfaesi Act, 2002.
2. Contention of the petitioner is that the husband of the petitioner late Afroj Aalam had taken a Home loan from the respondent for construction and in the process of repayment of the same the husband of the petitioner however met with a road accident on

28.12.2016 receiving grievous injuries and after prolonged treatment the husband of the petitioner succumbed to death on 08.02.2018 because of which there was a default in the repayment of the loan. Thereafter the respondents have initiated recovery proceedings under Sarfaesi Act. Counsel for the petitioner submits that it is not a case where the petitioner has any malafide intention of defaulting the respondent Bank but because of the precarious situation that petitioner has been put to by virtue of accidental death of her husband the repayment could not be made and that she is trying hard to clear the loan.

3. At this moment counsel for the petitioner prays for a limited relief asking for a direction to the respondents to consider the case of the petitioner sympathetically so that some settlement could be arrived at by reducing the total liability.
4. Counsel for the respondent Bank at this juncture submits that appropriate remedy for the petitioner would had been for assailing the same before the concerned Debt Recovery Tribunal under Section 17. Moreover, the notice impugned challenged is almost about an year back, the writ petition therefore suffers from delay also.
5. Having heard the contentions put forth on the part of the parties and taking into consideration the peculiar facts as has been reflected so far as contention of the petitioner is concerned, this Court would like the respondents to consider the case of the petitioner a widow on humanitarian grounds with a sympathetic approach. Knowing fully well of the statutory alternative remedy that petitioner has but this Court would like to request the respondent Bank not to take this as another commercial transaction rather consider the claim of the

petitioner with a humanitarian and sympathetic touch and see if the loan of the petitioner could be settled by granting some benefit to the petitioner a widow like waving off the interest or anything as such where the burden would be reduced substantially and petitioner could also think of settling the matter once and for all.

6. Accordingly, the writ petition at this juncture stands disposed of directing the petitioner to approach respondent No.1 afresh by moving appropriate application/representation seeking for a sympathetic consideration in respect of outstanding loan against the petitioner's husband.
7. Let representation be filed in this regard within a period of 10 days from today and respondent No.1 in turn shall consider the same and try to help out the petitioner as far as possible ensuring an out of Court settlement amicably within a further period of four weeks from the date of receipt of representation.
8. Meanwhile, purely as an interim measure respondents are directed not to initiate any further proceedings pursuant to Annexure P-1.
9. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge