HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3196 of 2020

1. Jagtar Singh S/o Shri Santokh Singh, Aged About 46 Years,
2. Smt. Surjit Singh W/o Shri Jagtar Singh Aged About 46 Years,

Both R/o Flat No. 305, Anandpuram Phase-2, Kohka, Junwani Road, Bhilai, District Durg (Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur (Chhattisgarh)
2. The District Collector And District Magistrate Raipur (Chhattisgarh)
3. Competent Authority I.D.F.C. First Bank Ltd., Branch Office, D.B. City Corporation Park, Rajbandha Maidan, District Raipur (Chhattisgarh)

---- Respondents

For petitioners - Shri Varun Sharma, Advocate.
For Respondent/State – Shri Gagan Tiwari, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

11/12/2020

1. The challenge in this petition is to the order passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'Act of 2002') by the District Magistrate, Raipur whereby the order have been passed for taking possession of the secured asset.

2. Learned counsel for the petitioners submits that while passing the impugned order dated 9th November, 2020 (Annexure P-1) the Collector has failed to take into account the proviso clause of Section 14 of the Act of 2002 wherein 9 points have been enumerated for which the Collector has to satisfy himself. He would submit that the objection preferred by the petitioners were not considered inasmuch as though the petitioner was

sanctioned a loan of Rs.42 lakhs but actually the loan was availed of Rs.35 lakhs and the interest was levied on 42 lakhs and on this issue the objection were raised. It is contended that the Collector without deciding the same objection has passed the order of attachment for taking possession of house under the Act of 2002.

3. Perused the order passed by the Collector dated 9th November, 2020. Perusal of the order would show that despite the service of notice, initially the petitioners though appeared, however subsequently they failed to appear and eventually on 26/10/2020 the Collector proceeded ex-parte. The order records that after service of the notice under Section 13 (2) of the Act of 2002 the petitioners failed to liquidate the amount of loan so recalled. Consequently, the measure under section 14 of the Act of 2002 was invoked. Though it is submitted that compliance of proviso clause to Section 14(1) of the Act of 2002 has not been done, however while reading the application moved u/s 14 of the Act it would show that in the application the entire facts were narrated which was supported by an affidavit. Therefore, it cannot be said that there has been violation of the proviso clause to Section 14 of the Act of 2002 as substantial compliance was already made. It is only execution proceeding done under Section 14 of the Act of 2002 and petitioner can challenge the initial proceeding u/s 13 of the Act before the appropriate forum.

4. In view of this, I do not find any illegality in the order dated 9th November, 2020 (Annexure P-1) which warrants interference. The petition is devoid of merit and it is dismissed accordingly. However, the petitioners would be at liberty to avail the appropriate remedy available to them under the law.

Sd/-

(Goutam Bhaduri)

JUDGE

gouri