

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) No. 1044 of 2021

Sheetal Somawar, W/o. Late Sharad Somawar, Aged About 37 Years,
R/o. Flat No. A/12, Ward No. 42, Shakuntala Heights, Sarkanda,
Bilaspur, Police Station Sarkanda, Tahsil And District Bilaspur,
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, District New Raipur, Chhattisgarh
2. Superintendent Of Police Bilaspur, Office Of The Superintendent Of Police Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh.
3. Station House Officer Sarkanda Bilaspur, Police Station Sarkanda (Crime No. 567/2019), Tahsil And District- Bilaspur, Chhattisgarh.
4. Station House Officer Tarbahar Bilaspur, Police Station Tarbahar, Tahsil And District- Bilaspur, Chhattisgarh.
5. Station House Officer City Kotwali Bilaspur, Police Station City Kotwali, Tahsil And District- Bilaspur, Chhattisgarh.
6. Vishwajeet Bhowmick, S/o. Dilip Kumar Bhowmick, Aged About 47 Years, R/o. R-1, Vinoba Nagar, Thana Tarbahar, Bilaspur, District- Bilaspur, Chhattisgarh.
7. Ruma Bhowmick, W/o. Vishajeet Bhowmick, Aged About 45 Years, R/o. R-1, Vinoba Nagar, Thana- Tarbahar, Bilaspur, District- Bilaspur, Chhattisgarh.
8. Bank Of Baroda, Through The Chief Manager Bank Of Baroda, Seepat Road Branch Rajkishore Nagar Bilaspur, Rajkishore Nagar Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh. Pin 495006
9. Panjab National Bank, Through The Chief Manager Punjab National Bank, Link Road Nagar Deep Hotel Vyapar Vihar Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh.
10. Rajesh Seth Through Rajnish Seth, S/o. Jagdish Dayal Seth Mortgage Property Owner Of Plot. No. 12, First Floor Shri Kanha Heritage Ring Road No. 2 Guru Ghansidas Nagar Ward Tifra, Tahsil And District- Bilaspur, Chhattisgarh. R/o. H.No. LIG- 51 Dindayal Awas Bahtarai Bilaspur, Tahsil Bilha District- Bilaspur, Chhattisgarh.
11. Bilaspur Casting, Prop. Smt. Pavitra Sikka, Mortgage Property Owner Rajnish Seth, S/o. Jagdish Dayal Seth, Plot. No. 12, First Floor Shri Kanha Heritage Ring Road No. 2 Guru Ghansidas Nagar Ward Tifra, Tahsil And District- Bilaspur, Chhattisgarh.
12. Abhilasha Light Infratech, Partner And Mortgage Property Owner Megha Parolkar And Uma Joshi Behind R.T.O. Office Lagra Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh.
13. Prahalad Kumar Sahu, Mortgage Property Owner Near Brielient Public School Bahtarai Seepat Road Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh.
14. Raghav Madhav Associates, Prop. Rajnish Seth And Mortgage Property Owner Seema Pandey, W/o. Sanjay Pandey, R/o- H.No. LIG- 51

- Dindayal Awas Bahtarai Bilaspur, Tahsil Bilha, District- Bilaspur, Chhattisgarh.
15. Hemlata Sahu, W/o. Akhileshwar Sahu, Mortgage Property Owner, R/o. Village- Khamtarai, Tahsil And Block- Bilha, District- Bilaspur, Chhattisgarh.
 16. Adhar Infratech, Prop. Smt. Parag Mishra Mortgage Property Owner Anil Kumar Yadav, S/o. Tiharu Ram Yadav, R/o. H. No. E2 Dream City, Face To Dream City Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh.
 17. Abhijeet Nag, Through Mortgage Property Owner Reena Nag, W/o. Chiranjeet Nag, R/o- Ramkrishan Paramhansh Ward Near Radha Krishan Mandir, Lodhipara Koni Road Sarkanda Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh.
 18. Udaan ITI Prop. Ruma Bhowmick Mortagage Property Owner Anita Narang, W/o. Sanjay Narang, R/o. Vikash Nagar Ward No.1 27 Kholi Kududand Bilaspur, Tahsil And District Bilaspur, Chhattisgarh.
 19. Abhilasha Engineering, Prop. Shri Abhilasha Banarjee, Morthgage Owner Smt. Vinita Pandey, W/o. Prashant Pandey, Ganga Nagar Ward, Ward No. 1 Mangla Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh.
 20. Anil Kumar Trivedi Mortgage Property Owner Govind B/03 Krishna Nagar Colony Nayapara, Ward No. 7 Village- Hathni Bhatapara, District- Baloda Bazar- Bhatapara, Chhattisgarh.
 21. Sushmita Mishra Mortgage Property Owner Susmita Mishra Chhatrapati Shivji School Road Rawatpur Nagar Mathpurena Raipur, District- Raipur, Chhattisgarh.

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For Petitioner	:	Mr. Vijay K. Deshmukh, Advocate
For State/Respondents No.1 to 5.	:	Ms. Sunita Jain, Govt. Advocate
For Respondent No.8.	:	Mr. Ankit Singhal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

19.02.2021

Heard

1. The challenge in this petition is to the auction proposed by the Bank of Baroda, Respondent No.8, under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act).
2. Learned counsel for the petitioner would submit that the petitioner was subjected to fraud and property is being put to an auction which was not

at all mortgaged and the entire fraud was played by the respondent No.6 & 7 with the connivance of the Bank officers.

3. Be that as it may, since the auctions have been contemplated under the SARFAESI Act, the petitioner has to approach the DRT under Section 17 of the SARFAESI Act. The said contention is also supported by the recent judgment passed in (2020) 4 SCC 440. Therefore, the petitioner may avail the alternative remedy of filing the appeal.
4. The respondents counsel submits that now the auction has been rescheduled on 09.03.2021, therefore, in the meanwhile, the petitioner may approach to the DRT.
5. With such observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge

Aks