

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2018 of 2021

- Bank Of Baroda Through Its Authorised Officer, Mr. Surendra Singh Parihar, S/o Shri Govind Singh Parihar, Aged 59 Years, Address Bank Of Baroda, Zonal Stressed Asset Recovery Branch, Opp. Manas Bhawan, Jabalpur, District Jabalpur M. P. Pin Code 482002

---- Petitioner

Versus

1. District Magistrate Cum Collector, Durg Office Of District Magistrate, District Durg Chhattisgarh
2. Naib Tehsildar Office Of Naib Tehsildar, Tehsil And District Durg Chhattisgarh
3. M/s Moon Syndicate Through Its Proprietor, Santosh Raj Yadav, Registered Address, 88/1 Industrial Estate, Bhilai, District Durg Chhattisgarh
4. Shakuntala Bai W/o Ramraj Yadav R/o Bunglow No. 19, Royal Green, Junwani, Bhilai, Tehsil and District Durg Chhattisgarh

---- Respondents

For Petitioner : Mr. Shreyas Dubey, Advocate

For State : Mr. Gagan Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order

09.06.2021

1. Heard
2. The grievance of the petitioner in the present writ petition is that an order under Section 14 of the Securities and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as 'SARFAESI Act') was passed on 03.03.2018 vide Annexure P/1 wherein the possession was directed to be handed over. However till date the possession of the secured asset i.e. the mortgaged property has not been given thereby the order though passed is not executed. It is stated that only the notices are issued by the office of Naib Tehsildar Durg for the dispossession but in substance nothing has transpired.
3. Learned counsel for the petitioner submits that as per Section 14(1)(A) of the SARFAESI Act, the District Magistrate or the Chief Metropolitan Magistrate may

authorise an officer subordinate to take possession of the assets and the documents, however the same is not being done thereby the fruits of the order dated 03.03.2018 (Annexure P/1) stood defeated.

4. Perusal of the documents filed along with this petition would show that the order under Section 14 of the SARFAESI Act was passed on 03.03.2018 (Annexure P/1) and thereafter notices were issued by the office of Naib Tehsildar Durg to take the possession of the mortgaged property but till date it has not been concluded, as such it appears that the petitioner is before this Court.
5. Section 14(1)(A) of the SARFAESI Act authorises the District Magistrate to authorise any officer subordinate to him to take the possession for such assets or documents relating thereto and forward the assets and documents to the secured creditor. The documents shows that the notice dated 23.11.2020 (Annexure P/2) has been issued from the office of Naib Tehsildar Durg which is addressed to Mal Jamadar and considering the time lapsed, it can be assumed that only mere formalities are being done and purpose for which order was passed is shelved for reasons better known to respondent No. 2. Since the considerable time has been passed and as such it appears that the submission made by the petitioner hold the sway in their favour. Accordingly, it is directed that the respondent No. 2 Naib Tehsildar Durg shall execute the order dated 03.03.2018 (Annexure P/1) and in order to execute such order, if necessary, the Police help may be also availed. The said order of execution be carried out within a period of 45 days from the date of receipt of copy of this order.
6. With the aforesaid direction/ observation, the writ petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge