

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2353 of 2021

1. M/s. Goyal Cattle Feed Industries, Through Proprietor Rajendra Prasad Agrawal, Aged About 65 Years, S/o. Shri Babu Lal, Guarantor, Mangalam Kumar Agrawal, Aged About 34 Years, S/o. Shri Rajendra Prasad Agrawal.
2. M/s. Goyal Pulses, Through Proprietor Rajendra Prasad Agrawal, H.U.F. Rajendra Prasad Agrawal, S/o. Babulal, Guarantor Mangalam Kumar Agrawal, Aged About 34 Years, S/o. Shri Rajendra Prasad Agrawal.

Both Address : Gudhiyari Khalbada Haddi Godown Danveer Bhamasha Ward, Raipur, R/o. Goyal House, In Front Of Sharma Transport, Ramsagar Para, District Raipur, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through The Collector Cum District Magistrate, Raipur, District Raipur Chhattisgarh.
2. The Branch Manager, Bank Of India, Main Branch Raipur Chhattisgarh.
3. The Tahsildar, Tahsil Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. A.N.Bhakta, Advocate
For State/Respondents No.1 & 3.	:	Mrs. Richa Shukla, Dy. Govt. Advocate
For Respondent No.2	:	Mr. Anand Shukla, Advocate

Hon'ble Shri Justice Goutam Bhaduri

ORDER

24.06.2021

1. Challenge in this petition is to the order dated 02.11.2020 passed by the respondent No.1 in Revenue Case No.280/B-121/Year 2018-19.
2. Learned counsel for the petitioner would submit that this order was passed under Section 14 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (*for short "SARFAESI Act"*). He would submit that initially when the notice under Section 13 of the SARFAESI Act was issued, it was subject of challenge before the DRT, which was pending adjudication and in the meanwhile the impugned order has been passed by the Collector without giving any opportunity of hearing. Therefore, the amendment application was filed by Annexure P-7 before the DRT to set aside the order dated 02.11.2020. He would further submit at present since the DRT is non-functional, as such, the petitioner's case can not be heard and in the meanwhile

if the petitioner is dispossessed then he would suffer an irreparable loss and right of hearing would be taken away.

3. Per contra, learned counsel for the respondents opposes the argument and submit that the petitioner was aware of the fact that the memo was issued by the Tahsildar way back on 11.01.2021 and the petitioner choose to move the application on 17.02.2021 and that too the order was not placed before DRT. He further submits that the petitioner has failed to file any urgent hearing application before the DRT, therefore, he may pursue the cause before the DRT.
4. Heard learned counsel appearing for the parties and perused the documents.
5. As per Section 17 of the SARFAESI Act against the action under Section 13 & 14 of the SARFAESI Act, the petitioner has a right to challenge the same before the DRT. It appears that the petitioner has already challenged the proceeding under Section 13 before the DRT, Jabalpur, which is pending adjudication. In the meanwhile the order dated 02.11.2020 has been passed by the Collector in exercise of power under Section 14 of the SARFAESI Act whereby the possession of mortgaged properties have been directed to be handed over.
6. Since the proceedings are already pending before the DRT, this Court is not inclined to draw a parallel proceeding for same cause. Therefore, the petitioner may file suitable application in the pending case before the DRT, Jabalpur within a period of 15 days, which may be heard by the DRT as early as possible within a period of 30 days, if application is filed and till the application is decided for stay, no coercive action be taken against the petitioner.
7. With the aforesaid observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
JUDGE

Aks