

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3184 of 2021

1. Asharam Jain S/o Harishchandra Jain Aged About 58 Years Caste Kalar,
2. Ramkumar Sahu S/o Shiv Prasad Sahu Aged About 39 Years Caste Teli,
3. Banshilal Sahu S/o Dukalu Ram Sahu Aged About 70 Years Caste Teli,

All are R/o Village Bagodar, Tahsil And District Kanker Chhattisgarh

4. Narendra Kumar Kuldeep S/o Nathuram Aged About 48 Years R/o Malaldobari, Tahsil And District Kanker Chhattisgarh
5. Pradeep Sahu S/o Sevakram Sahu Aged About 49 Years Caste Teli, R/o Village Kurna Tahsil Narharpur, District Kanker Chhattisgarh
6. Dinesh Kumar Korram S/o Mayaram Aged About 41 Years Caste Ganda, R/o Village Maakdikhuna Tahsil And District Kanker Chhattisgarh **---- Petitioners**

Versus

1. Anmol India Agro Herbal Farming Dairies Care Company Limited Through Director Mohd. Juned Memon S/o Haji Umar Memon Aged About 35 Years R/o Vishali Nagar, Cement Road, Nagpur Post And Tahsil Nagpur District Nagpur Maharastra
2. State Of Chhattisgarh Through Collector Kanker District Kanker Chhattisgarh

---- Respondents

For Petitioners	:	Mr. R.N. Jha, Advocate
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For Respondent/ State	:	Mr. Gagan Tiwari, Dy. G.A.
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Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06.08.2021

1. Heard.
2. The instant writ petition has been filed by the petitioners on the ground that the petitioners are the bonafide purchasers of certain land from Anmol India Agro Herbal Farming Dairies Care Company Limited and the said properties were attached by the Collector Kanker. It is contended that the petitioners have already preferred a civil suit seeking declaration and injunction wherein the Collector Kanker is also a party and the Collector has proceeded ex-parte. He submits that in the meanwhile, the Collector has sought for confirmation of ad-interim attachment absolute before the District Judge Kanker under Section 7 of the

Protection of Depositors Interest Act, 2005 (hereinafter referred as 'Act of 2005').

He further submits that when the issue is already subjudice before the Civil Judge, then the simultaneous proceeding cannot be continued at the behest of the Collector.

3. After perusal of the record and after hearing learned counsel for the petitioners, it appears that the Collector has filed an application for confirmation of ad-interim order absolute under Section 7 of the Act of 2005.
4. Sub-section 2 of Section 7 of the Act of 2005 reads as under:-

“7.Attachment of properties on default of return of deposits, power of special court regarding attachment.- (2).The competent authority shall apply within fifteen days from the date of the order to the special court for making the ad-interim order or attachment absolute.”

5. Since the Collector has exercised the statutory mandate which is required to do so after attachment of the property then in such case, the said action cannot be said to be illegal provided it falls within the four corners of the mandate of Section 7 of the Act of 2005 and the time limit granted therein. The petitioners, therefore, can very well approach to the Special Court, wherein the said application by the Collector has been filed, to raise the grievance. The petitioner shall also be at liberty to file all the necessary documents, copy of the civil suit and the sale deeds along with the order-sheet of the civil suit and may seek necessary prayer.
6. At this stage, this writ petition appears to be premature and no adjudication has actually been taken place by the Court below.
7. With the aforesaid observation/ direction, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge