

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 4735 of 2021**

M/s Upadhyay Fabrication Through Proprietor Gopal Upadhyay S/o Shri Nandkishre Upadhyay Aged About 55 Years R/o Gol Market Vaishali Nagar Supela Bhilai District Durg Chhattisgarh

---- Petitioner**Versus**

1. Uco Bank Through Its Authorised Officer Branch Kohka, Bhilai District Durg Chhattisgarh
2. District Magistrate, Office Of District Magistrate, Durg District Durg Chhattisgarh
3. The Tehsildar, Office Of Tehsildar, Bhilai Nagar District Durg Chhattisgarh

---- Respondents

For Petitioner : Mr. Shyam Sunder Lal Tekchandani,
Advocate

For Respondent No.1 : Mr. P.R. Patankar, Advocate.

For Respondent No.2 & 3 : Ms. Sameeksha Gupta, Advocate.

Hon'ble Shri Rajendra Chandra Singh Samant**Order on Board****02.12.2021**

Heard

1. It is submitted by the learned counsel for the petitioner that the petitioner is borrower of respondent No.1 as the amount borrowed has remained unpaid, therefore, the proceeding under Securitisation & Recnstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (In short ('the Act, 2002') has been initiated. The respondent

No.2 has passed the order dated 29.12.2018 for taking possession of the secured assets, on that basis, the Additional Tahsildar, Durg has issued bailable warrant against the petitioner. It is submitted that the petitioner has remedy available, before the DRT, Jabalpur under the provisions of Act, 2002. The appeal has already been filed on 15.11.2021 and an application for grant of stay on the proceeding has also been filed but the same is pending for decision for the reason that the functioning of the DRT, Jabalpur is withheld because of vacancy in the seat of presiding officer. Hence, the petitioner is before this Court.

2. Learned Counsel for the respondent No.1 opposes the petition and the submissions made in this respect. It is submitted that the petitioner himself has approached the DRT, Jabalpur belatedly after about three years, therefore, the petition is not fit to be admitted. Further in case, this Court feels inclined to grant relief to the petitioner that may be granted only after imposing conditions.
3. Considered on the submissions and perused the documents placed on record.
4. This fact is not denied that DRT, Jabalpur is not functional at present, therefore, the petitioner has though remedy available to seek remedy before appropriate forum, only for this reason this petition is disposed off at motion stage. It is ordered that the action initiated by the respondents No.2 and 3 against the petitioner shall remain stayed until the application for interim relief is pending, before the DRT, Jabalpur is decided subsequent to appointment of presiding officer on condition that if the petitioner makes partial payment of the amount outstanding against which will be Rs.3.00 Lakhs within a period of 15 days from today. The petitioner is also directed not to seek

unnecessary adjournment, before the DRT, Jabalpur, when it has started functioning.

5. With these observations, this petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram