

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C.) No.4765 of 2021

1. Ashok Kumar Agrawal S/o Late Shri Tulsiram Agrawal Aged About 56 Years
2. Smt. Seema Agrawal W/o Ashok Kumar Agrawal Aged About 53 Years
3. Aayush Agrawal S/o Ashok Kumar Agrawal Aged About 32 Years
(All are resident Of H-6, Anupam Nagar, Raipur, District Raipur, Chhattisgarh 492001.)

---- Petitioners

Versus

1. Axis Bank, Through Its Authorised Officers, Secured Collection And FCU Retail Assets Center, 2nd Floor, Opposite Pandari Bus Stand, Jeevan Bima Marg, Raipur, District Raipur Chhattisgarh 492001
2. The Collector, District Raipur, Collectorate, Raipur Chhattisgarh.

---- Respondents

For Petitioners	– Mr. Amit Buxy, Advocate.
For Respondent No.01.	– Mr. Aditya Chopra, Advocate.
For State	– Ms. Akanksha Jain, Dy. G.A.

S.B.- Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-11-2021

1. Heard.
2. It is submitted that the petitioners are the borrowers of the respondent No.1. Respondent No.1 has initiated the proceeding for recovery of the loan amount. The District Magistrate has vide order dated 15.02.2021 allowed the application of the respondent No.1 under Section 14 of the SARFAESI Act, 2002 directing taking over possession of the secured assets. The Tehsildar has issued notice to the petitioner vide annexure-

P/7 and the date mentioned in the notice for taking possession was 30.11.2021, therefore, the petitioner has apprehension. The petitioner has filed petition before D.R.T. Jabalpur along with the application for grant of interim relief. Because of the vacancy in the D.R.T. Jabalpur, the petition and the application are un-heard, therefore, this petition has been filed. Hence, it is prayed that the interest of the petitioner be protected.

3. Learned counsel for respondent No.1 opposes the submissions and submits that the notice issued to the Tehsildar has been received by the petitioner on 11.10.2021, even then this petition has been filed with delay. Therefore, the petitioner is not entitled for any relief.
4. Learned State counsel for respondent No.2 opposes the submissions.
5. After considering on the submissions and perusing the documents present in the record, it is observed that the seat of the presiding officer of the D.R.T. Jabalpur is vacant at present, therefore, the petitioner who has remedy available under the provisions of SARFAESI Act, that cannot be pursued. Hence, for this reason, this petition is disposed off at the motion stage. It is ordered that the proceeding initiated against the petitioner by notice Annexure-P/7 shall remain stayed until the application for interim relief filed before D.R.T. Jabalpur is decided subsequent to the appointment of presiding officer of the same authority.
6. With these observations, the petition stands disposed off.
7. Certified copy today.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge