

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 731 of 2013**

- M/s Shyama Rama Structural And Power Pvt. Ltd. Ring Road 2, Transport Nagar, Tatibandh, Raipur, Distt Raipur,

---- Petitioner**Versus**

- Andhra Bank Through Authorized Officer/ Chief Manager Fafadih Chowk, Raipur, Distt Raipur, Chhattisgarh

---- Respondent

Shri Raj Narayan Mishra, Petitioner appears in person.
For Respondent : Shri Ankit Pandey, Advocate

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J.**Order On Board****18.04.2024**

1. By way of this petition, Shri Raj Narayan Mishra, who is the Director of the petitioner-M/s Shyama Rama Structural And Power Private Limited, has questioned the legality and propriety of the order dated 17.04.2013 (Annexure P/1) passed by the Debt Recovery Tribunal, Jabalpur in SA No. 198/2010, whereby an application preferred by the petitioner under Section 17(1) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act, 2002') has been dismissed.

2. From perusal of the record, it appears that a proceeding was initiated by the petitioner while exercising the power enumerated under Section 17(1) of the SARFAESI Act, 2002 before the Debt Recovery Tribunal, Jabalpur, where an interim order was passed on 27.12.2010 (Annexure P/2) whereby it has been ordered that since five of the secured assets are already in the possession of the Respondent-Bank, the Respondent-Bank is directed not

to take physical possession of the residential property of the appellant under Section 14 read with Section 13(4) for realisation of the dues till this SA (Securitisation Application) is disposed off on merits and, while granting the interim relief as such, the following direction was issued which reads as under:-

“This interim order is passed as the appellant had lodged rejoinder to the reply filed by the Bank and the Ld. Counsel for the Respondent had sought time for reply & further hearing. The Respondent Bank is however at liberty to continue with the recovery by proceedings against the properties already taken possession of if the appellant does not repay ½ of the dues within a period of 45 days.

For compliance report and receipt in proof of deposit & reply if any to the rejoinder and hearing.”

3. After passing of the aforesaid order, a Review Petition was filed by the petitioner before the said Authority and simultaneously, the petitioner has questioned the same before the Debt Recovery Appellate Tribunal at Allahabad while preferring an Appeal under Section 18 of the SARFAESI Act, 2002, alongwith an application for its condonation of delay, who in turn vide its order dated 18.03.2011 (Annexure P/3) has dismissed the same holding that it has no power to condone the delay and, accordingly, the said appeal was dismissed on the point of limitation. It appears further that after the dismissal of the said appeal, a petition, being WP(C) No.1804/2011 was filed, wherein this Court vide order dated 20.03.2012 (Annexure P/4) has disposed off the same while directing the concerned Debt Recovery Tribunal to decide the pending application, as initiated by the petitioner, under Section 17(1) of the SARFAESI Act, 2002 within a period of one month.

4. In pursuance to the aforesaid direction, the Debt Recovery Tribunal, Jabalpur vide its order impugned dated 17.04.2013 has dismissed the same by following the principles laid down by Hon'ble the Supreme Court in the matter of "**M/s. Prestige Lights Ltd. vs. State Bank of India**" reported in **AIR 2007 SCW 5350**. It is to be seen further that the order impugned has also been questioned before the Debt Recovery Appellate Tribunal at Allahabad, where the same has been dismissed way-back on 03.07.2013 in Appeal No.256/2013, however, the said fact was not brought to the knowledge of this Court at that particular time.

5. Since the order impugned dated 17.04.2013 (Annexure P/1) has already been merged into the order dated 03.07.2013 as passed by the Debt Recovery Appellate Tribunal, Allahabad, I am, therefore, not inclined to entertain this petition.

6. The petition is, accordingly, dismissed and all the pending applications stand disposed off.

No order as to cost(s).

Sd/-
(Sanjay S. Agrawal)
Judge