

(2018) 08 CHH CK 0295

Chhattisgarh High Court

Case No: Writ Petition (C) No. 2355 Of 2018

Mayank Agrawal And Ors

APPELLANT

Vs

State Bank Of India Commercial
Branch And Ors

RESPONDENT

Date of Decision: Aug. 27, 2018

Hon'ble Judges: Prashant Kumar Mishra, J

Bench: Single Bench

Advocate: Manoj Paranjpe, PR Patankar

Final Decision: Dismissed

Judgement

Prashant Kumar Mishra, J

1. Heard.

2. The DRAT has dismissed the petitioners' appeal as barred by limitation.

3. It is argued that the impugned order is ex facie illegal and arbitrary, in as much as, delay of mere 193 days has been refused to be condoned without

considering that for a substantial length of time, out of 193 days, the petitioner was ill and if the said period is excluded, the actual delay in filing the appeal would be 31 days.

4. Having seen the order passed by the appellate authority, it appears the petitioners are not the borrowers. The petitioners have preferred an appeal

against the auction proceedings, in which, the borrowers' mortgaged property was auctioned in favour of one M/s. N.K.S. Mining Ltd. The petitioners

submitted their objection before the authorities after considerable delay and thereafter, again slept over their right and preferred the appeal with a

delay of 193 days, after rejection of their objection before the DRT. It was the petitioners' contention that they were prevented from bidding by the auction purchasers, otherwise, they would have offered more handsome bid to purchase the property, which would have eventually benefited the bank in making substantial recovery of the loan amount.

5. If the petitioner's contention is accepted, then, any third person may raise an objection at a later point of time with a plea that he is ready to offer more amount than the auction purchaser and likewise, some other person may come to bid still higher amount than the first objector making the entire auction process endless. Moreover, there is no proper explanation for each days delay of 193 days in filing the appeal before the DRAT. If the petitioners were really sincere and willing to purchase the property, they should have remained vigilant throughout. However, they failed to do so.

6. Therefore, on considering the contention of learned counsel for the petitioners from all possible aspects, this Court do not find present to be a fit case for entertaining the same in exercise of its equitable jurisdiction.

7. The writ petition is accordingly dismissed.