
(2011) 05 AHC CK 0385

Allahabad High Court

Case No: C.M.W.P. No. 29506 of 2011

Satish Chandra Rastogi

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision: May 20, 2011

Acts Referred:

- Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) - Section 13(2)

Citation: (2011) 5 AWC 4955 : (2011) 8 RCR(Civil) 344

Hon'ble Judges: Satya Poot Mehrotra, J; Jayashree Tiwari, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Satya Poot Mehrotra and Mrs. Jayashree Tiwari, JJ.

The present writ petition has been filed by the petitioner, inter alia, praying for giving a direction to the respondents not to take any coercive action/measure against the petitioner, and further directing to fix easy instalments and furnish statement of account to the petitioner.

2. It appears that the petitioner took housing loan from the respondent No. 3 I.C.I.C.I. Bank Ltd. The petitioner committed default in payment of the loan. Consequently, proceedings u/s 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "the Securitisation Act") have been initiated against the petitioner. A notice u/s 13(2) of the Securitisation Act was issued to the petitioner by the respondent No. 4 claiming itself to be the assignee from the respondent No. 3 in respect of the said loan. The copy of the said notice u/s 13(2) of the Securitisation Act has been filed as Annexure-1 to the writ petition.

3. Shri Manish Trivedi, learned counsel for the respondent No. 3 submits that the petitioner had earlier filed a writ petition, being Civil Misc. Writ Petition No. 45523 of 2010, impugning the measure taken against the petitioner by the respondent No. 4 herein pursuant to the said notice u/s 13(2) of the Securitisation Act. Shri Manish Trivedi further submits that the said writ petition was disposed of by this Court by the order dated 4.8.2010 giving various directions, and thus, the present writ petition filed by the petitioner is second writ petition in regard to the same cause of action. Shri Manish Trivedi has produced before the Court a photostat copy of the certified copy of the order dated 4.8.2010, which is taken on record.

4. In view of the above, it is evident that the present writ petition filed by the petitioner is the second writ petition in regard to the same cause of action. The present writ petition is thus not maintainable and is liable to be dismissed.

The writ petition is, accordingly, dismissed.