

(2010) 08 JH CK 0011
Jharkhand High Court
Case No: None

Siddharth Jewellers Pvt. Ltd. and
Others

APPELLANT

Vs

The State Bank of India

RESPONDENT

Date of Decision: Aug. 25, 2010

Acts Referred:

- Debts Recovery Tribunal Act, 1993 - Section 89(25)
- Debts Recovery Tribunal Rules - Rule 5A
- Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) - Section 13(4)

Hon'ble Judges: R.K. Merathia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

R.K. Merathia, J.

W.P.C. No. 110 of 2010 has been filed for quashing the order dated 2.12.2009, passed by learned Presiding Officer, Debt Recovery Tribunal, Ranchi, in review application being R.A. No. 1 of 2009.

2. It appears that on 21.7.2006, the respondent-Bank filed recovery application being O.A. No. 32 of 2006 before D.R.T., Ranchi, about which petitioners knew on 24.7.2006. Petitioners made certain correspondences with the Bank. On 25.1.2007, a demand notice u/s 83(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitization Act for short) was issued asking the petitioners to pay Rs. 2,27,35,392/-. Then 27.4.2007, possession notice u/s 83(4) of the Securitization Act, 2002 was issued against the mortgaged property, under which the Bank took legal possession, which was published in newspaper on 4.5.2007 also. Petitioners filed Sarfaesi appeal being S.A. No. 9 of 2007 before D.R.T. , Ranchi, challenging the initiation of Sarfaesi proceeding against

the petitioners u/s 83(2) and 13(4) of the Act. On 22.5.2007, learned D.R.T., Ranchi granted interim injunction restraining the Bank from proceeding against the mortgaged property under Sarfaesi proceeding. On 4.3.2008, petitioners filed counter claim for an amount higher than the amount claimed by the Bank in O.A. No. 32 of 2006, pending before the D.R.T., Ranchi, which was registered as C.C. No. 2 of 2008. On 2.12.2008, petitioners' application being S.A. No. 9 of 2007 was dismissed by the D.R.T., Ranchi. Against which, a review application under Rule 5A of DRT Rules was filed for reviewing the said order dated 2.12.2008. Petitioners filed an application u/s 89(25) of D.R.T. Act in pending O.A. No. 32 of 2006 seeking an order of interim protection till O.A. as well as counter claim is adjudicated, which was finally heard and rejected by D.R.T., Ranchi, and the Bank was given liberty to proceed further under the provisions of Sarfaesi Act. Against such order, petitioners preferred appeal before DRAT, Kolkata along with a petition for interim protection, which was admitted on 2.4.2009 but the Tribunal refused to grant interim protection.

3. Against the said order dated 2.4.2009, petitioners filed connected WPC No. 2278 of 2009, in which on 3.11.2009, a direction was issued to D.R.T., Ranchi to dispose of the R.A. No. 1 of 2009. After hearing the parties, learned D.R.T. Ranchi dismissed the review application inter alia on the ground that there is no provision of review in Securitization Act, 2002.

4. Petitioners preferred appeal before D.R.A.T., Kolkata against the said order. But on the ground that the D.R.A.T. Kolkata was not functional, writ petition-W.P.(C) No. 110 of 2010 was filed.

5. It was informed by Mr. Rajesh Kumar, Learned Counsel appearing for the Bank, that on 12.8.2010, i.e. the date on which the property in question was auctioned, petitioners moved D.R.A.T. Kolkata and prayed for stay, which was rejected by D.R.A.T. and thereafter auction has already taken place. He further submitted that petitioners are delaying the matter and is abusing the process of law. In the circumstances, these writ petitions have become infructuous. Accordingly, they are dismissed. However, no costs.