(2021) 12 UK CK 0300

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2856 Of 2021

Anil Kumar APPELLANT

Vs

Kotak Mahindra Bank Ltd. & Another RESPONDENT

Date of Decision : 29-12-2021

Acts Referred:

Citation : (2021) 12 UK CK 0300

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Siddhartha Sah

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. Petitioner took a commercial loan of Rs. 7.46 lakh from City Financial Consumer India Ltd. (Respondent No. 2) in the year 2007, which was

subsequently assigned by lender bank to Kotak Mahindra Bank Ltd. (Respondent No. 1). Since petitioner defaulted in repayment of loan, therefore,

respondent no. 1 has initiated recovery proceedings by invoking provision of Securitisation and Reconstruction of Financial Assets and Enforcement of

Security Interest Act, 2002 (in short â??SARFAESI Actâ??). Thus, feeling aggrieved, petitioner has approached this Court.

2. Mr. Siddhartha Sah, learned counsel appearing for the petitioner submits that petitioner has filed a securitization application before Debts Recovery

Tribunal, Dehradun, but on account of vacancy on the post of Presiding Officer, no order has been passed on his application. He further submits that

in the month of August, 2021, Competent Authority in the Kotak Mahindra Bank Ltd. had agreed for one time settlement of the loan for `9.00 lakh, but now respondent no. 1 has taken possession of the secured asset on 13.12.2021.

3. Learned counsel for the petitioner submits that petitioner is ready and willing to pay the amount as per the one time settlement arrived with Kotak

Mahindra Bank Ltd. in the month August, 2021.

4. This Court cannot go into this issue raised by petitionerâ??s counsel, however, having regard to the facts and circumstances of the case, the writ

petition is disposed of with liberty to petitioner to approach the Competent Authority in the Bank (Kotak Mahindra Bank Ltd.) by making a

representation, within one week from today. He shall also deposit a sum of ☐ 50,000/-, with the representation to show his bonafide. If such

representation is made within stipulated time, the Competent Authority in the Bank shall look into the matter and take appropriate decision, in

accordance with law, within a period of two weeks from the date of receipt of such representation. For a period of three weeksâ?? or till decision is

taken on petitionerâ??s representation, whichever is earlier, status quo qua secured asset of the petitioner shall be maintained.

5. Let certified copy of this order be supplied to learned counsel for the petitioner today itself.