
(2024) 10 UK CK 0046

In the Uttarakhand High Court

Case No : Writ Petition Miscellaneous Single No. 2989 Of 2024

Mahendra Giriand Another

APPELLANT

Vs

District Cooperative Bank Ltd. & Another

RESPONDENT

Date of Decision : 25-10-2024

Acts Referred:

Securitization And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 13(2)
Constitution Of India, 1950 — Article 226

Citation : (2024) 10 UK CK 0046

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Alok Kumar, Ashutosh Thakral, M.S. Bisht

Final Decision : Dismissed

Judgement

Pankaj Purohit, J

1. Heard learned Counsel for the parties.
2. By means of this petition, petitioners have prayed to direct the respondent no.1 to open the seal of petitioners' house and to allow them to take back their belongings.
3. Facts of the case are that petitioners borrowed a home loan of Rs.17.00 lakh from respondent no.1 in the year 2018. Since they could not repay the loan amount, they received a notice u/s 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (to be referred to as 'the Act') and accordingly the loan account of petitioners was declared as 'Non Performing Asset' (NPA). Petitioners, feeling aggrieved, approached the Debts Recovery Tribunal constituted under the provisions of the Recovery of Debts and Bankruptcy Act, 1993 which was registered as S.A. No.273 of 2023, wherein they moved an application under the Act which is pending and the last date fixed was 04.10.2024. However, in the

meanwhile, on 25.09.2024 the petitioners were evicted from the subject property. Now the petitioners have moved to this Court with a prayer to permit them to take back the belongings.

4. The fact of the matter is that in respect of the secured asset, proceedings are already pending before the Debts Recovery Tribunal. Moreover, the said Tribunal is the appropriate authority who can look into the matter and decide the controversy. This Court in exercise of powers vested under Article 226 of the Constitution of India is not supposed to enter into the factual matrix of the case.

5. The writ petition is, accordingly, dismissed in limine.

6. It is, however, observed that it shall be open to the petitioners to move an application before the concerned Debts Recovery Tribunal seeking to take back their belongings from the questioned property. If any such application is moved, the same may be disposed of in accordance with law.