

(2021) 12 UK CK 0067

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2574 Of 2021

Memo & Another

APPELLANT

Vs

Department Of Financial Services & Others

RESPONDENT

Date of Decision : 07-12-2021

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 17

Citation : (2021) 12 UK CK 0067

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : J. Karnatak, S.C. Dumka, Pradeep Hairiya

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. A housing loan was taken by Mr. Eshavar Pal (husband of petitioner no. 1) and the petitioners from M/s Aavas Financiers Ltd. (respondent no. 4). Mr. Eshavar Pal has passed away before the loan could be repaid and respondent no. 4 has initiated recovery proceedings by invoking provision of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act"). Feeling aggrieved by possession notice issued by Authorized Officer, petitioners have approached this Court.

2. Mr. Jagdish Karnatak, learned counsel appearing for the petitioners submits that petitioners filed securitization application No. 88 of 2021, which is pending before Debts Recovery Tribunal, Dehradun. He further submits that since Debts Recovery Tribunal, Dehradun is non functional due to vacancy on the post of Presiding Officer, therefore, petitioners have become remediless.

3. Mr. S.C. Dumka, learned counsel appearing for respondent no. 1 admits that post of Presiding Officer, Debts Recovery Tribunal, Dehradun is vacant since October, 2021. He further submits that appointment of new Presiding Officer is

likely to take some time.

4. Since petitioner had approached Debts Recovery Tribunal under Section 17 of SARFAESI Act, but due to non-availability of Presiding Officer, petitioner could not get any relief in his securitization application, therefore, having regard to the peculiar facts and circumstances of the case, it is provided that till appointment of Presiding Officer, Debts Recovery Tribunal, Dehradun or for a period of four weeks, whichever is earlier, status quo shall be maintained qua possession over secured asset of the petitioners.

5. With the aforesaid direction, the writ petition stands disposed of.

6. Let certified copy of this order be supplied to the petitioner within 24 hours.