

(2021) 11 MP CK 0062

In the Madhya Pradesh High Court

Case No : Writ Petition No. 24083 Of 2021

M/S D.K. Traders Thru. Proprietorshri Mahesh Bhgchandani
And Others

APPELLANT

Vs

Authorised Officer And Others

RESPONDENT

Date of Decision : 08-11-2021

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security
Interest Act, 2002 — Section 14

Citation : (2021) 11 MP CK 0062

Hon'ble Judges : Sujoy Paul, J;Pranay Verma, J

Bench : Division Bench

Advocate : Vijay Kumar

Final Decision : Disposed Of

Judgement

1. Learned counsel for the petitioners submits that the respondents have initiated recovery proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (which shall be referred hereinafter as 'the Act, 2002') against the properties of petitioners.

2. The petitioners have already filed an appeal before the Debt Recovery Tribunal, Jabalpur along with an application for interim relief seeking stay of auction proceedings as per notice dated 18.03.2021. However, before the application could be considered, the Tribunal work was suspended as a result of which, he preferred Writ Petition No.8829/2021 before this Court which was disposed of by order dated 13.05.2021 with a direction that the respondents may proceed with the auction but shall not create any third party rights in relation to property in question (if not already created). Learned counsel further submits that despite such direction the respondent/Bank has created third party rights by issuing sale certificate in respect of the property and has accepted payment subsequent to 13.05.2021 and has granted extension of time till 04.07.2021

from the prospective purchasers. It is submitted that the respondents have filed an application under Section 14 of the Securitisation Act, 2002 as regards the properties of the petitioners. Thus, it is contended that the petitioners are under threat of forceful dispossession.

0 3 . Learned counsel for the petitioners submits that petitioner's Securitisation Application and their prayer for interim relief could not be taken-up and heard by the tribunal because tribunal of M.P. at present is not functional. The petitioners have fundamental right of seeking judicial review of an order which may have any adverse consequences against them. Since the petitioners have already availed the remedy, till such time interim application is decided, they may be protected.

4. We are told that DRT is not functional in Madhya Pradesh. The litigant cannot be left remedy-less. Since the petitioners have already filed Securitisation Applications along with a prayer for interim relief, we deem it proper to dispose of this writ petition by directing the DRT to take-up the Securitisation Application and the prayer for interim relief soon it becomes functional and take a decision on the prayer for interim relief in accordance with law expeditiously. It shall be the duty of the petitioners to communicate this order to the respondents and to the Registry of DRT within seven working days from today, failing which interim protection shall cease to operate automatically.

5. Till prayer for interim relief of the petitioners is decided by the Tribunal, no coercive action shall be taken against the petitioners and status-quo with regard to the properties in question shall be maintained.

6. With the aforesaid and without expressing any opinion on merits, the petition is disposed of.

C.c. as per rules.