
(2021) 11 MP CK 0059
In the Madhya Pradesh High Court
Case No : Writ Petition No. 21473 Of 2021

M/S Kuber Interprises And Others

APPELLANT

Vs

Bank Of Baroda 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 13(4), 17

Citation : (2021) 11 MP CK 0059

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

Bench : Division Bench

Advocate : Abhinav Malhotra

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 respondents issued a notice dated 03.12.2019 to the petitioners classifying their account as NPA and without deciding the objections raised by the petitioners to the same took symbolic possession of the subject property under Section 13(4) of the Act, 2002 on 14.02.2020.

3. Learned counsel for the petitioners further submits that petitioners have challenged the entire action of the respondents under the provisions of the Act, 2002 before Debt Recovery Tribunal, Jabalpur by way of Securitisation Application under Section 17 of the Act, 2002 along with a prayer for stay of further coercive actions against the petitioners.

04 . Respondent No.1 issued E-Auction notice for auction of the property on 07.10.2021 scheduled for 22.10.2021. The petitioners objected to the reserve

price fixed by the respondent/Bank by way of notice dated 16.10.2021 which was turned down by the respondents by their letter dated 21.10.2021. It is submitted that the respondents have neither provided the details of auction proceedings dated 22.10.2021 nor have accepted any letter from the petitioners in that regard. Thus, it is contended that the petitioners are under threat of forcible dispossession.

05 . Learned counsel for the petitioners submits that petitioners 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.

6. 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 Applications 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.

7. 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.

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

C.c. as per rules.