
(2021) 11 UK CK 0218

In the Uttarakhand High Court

Case No : Contempt Petition No. 221 Of 2019

M/s Naveen Kisan Rice Mill & Others

APPELLANT

Vs

Satendra Pal Singh

RESPONDENT

Date of Decision : 01-11-2021

Acts Referred:

Securitization And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 13(4), 14

Citation : (2021) 11 UK CK 0218

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Ravi Bisht, Anil Kumar Joshi

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Petitioner took a loan from Nainital Bank Ltd. Since petitioner defaulted in repayment of the loan, therefore, proceedings for recovery of the outstanding amount were initiated against him under provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. Petitioner filed Writ Petition (M/S) No. 173 of 2018 challenging the order passed by Additional District Magistrate, Udham Singh Nagar under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, on the ground that only District Magistrate is competent to pass such order. The said writ petition was allowed by Writ Court, vide judgment dated 28.09.2018. Operative portion of the judgment dated 28.09.2018 is extracted below:-

"32. Consequently, the writ petition succeeds. The notice dated 09.10.2017 (Annexure No. 8 to the writ petition) and the order dated 15.01.2018 (Annexure No. 10 to the writ petition) are hereby quashed and set aside. The net result

would be that all actions which have been taken by the bank subsequent to the order dated 15.01.2018 are nullity. The property be restored to its position as it was before passing of the impugned order dated 15.01.2018. It is, however, made clear that this order shall not restrict the District Magistrate to pass fresh order in accordance with law."

3. Nainital Bank Ltd. challenged the judgment rendered by Writ Court by filing Special Appeal No. 901 of 2018. Division Bench of this Court, vide judgment dated 10.01.2019, partly allowed the Special Appeal filed by the petitioner. Relevant extract of the said judgment is reproduced below:-

"As the respondent-writ petitioner has not subjected the auction proceedings to challenge, the order of the learned Single Judge, to the extent such proceedings have also been declared a nullity, is set aside. We may not be understood to have affirmed the action of the appellant-Bank in putting the subject property to auction. All that we have held is that, in the absence of a challenge thereto by the respondent-writ petitioner, the said proceedings could not have been declared a nullity. We make it clear that the order, now passed by us, shall not disable the respondent-writ petitioner from questioning the said auction proceedings in appropriate legal proceedings and, in case a challenge is mounted thereto, the competent court/Tribunal shall examine the contentions urged on its merits, uninfluenced by any observation made in this order."

4. It is the stand taken by the respondent in paragraph no. 6 of the response affidavit that the property, which was subject matter of proceedings under Section 13(4) and Section 14 of SARFAESI Act belongs to the guarantor, namely, Gurmej Singh and petitioner had no right, title or interest over the said property. In paragraph no. 7 of the affidavit, it has been stated that before passing of the judgment, the secured assets belonging to the guarantor was auctioned and auction sale was not set aside by this Court and only liberty was given to the petitioner to challenge the auction sale before the appropriate forum. In paragraph no. 8 of the affidavit, it has been stated that petitioner had filed a Securitization Application being S.A. No. 18 of 2019 before Debts Recovery Tribunal, Dehradun for setting-aside the sale.

5. Mr. Anil Kumar Joshi, learned counsel appearing for the respondent has produced in Court the judgment dated 06.02.2020 rendered by Debts Recovery Tribunal in S.A. No. 18 of 2019 filed by the petitioner, which is taken on record. From perusal of the judgment, it reveals that Debts Recovery Tribunal refused to interfere with the auction sale of the secured assets of the guarantor and, accordingly, the Securitization Application filed by the petitioner was dismissed.

6. It is the contention of the petitioner that since possession of the secured assets was not given back to the petitioner, therefore, it amounts to willful disobedience of the order passed by this Court.

7. In the facts and circumstances of the case, no case for proceeding under provisions of Contempt of Courts Act, is made out against the respondent.

8. Accordingly, the Contempt Petition is dismissed. Contempt notice issued to the respondent is hereby discharged.