(2024) 09 UK CK 0132

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2579 Of 2024

M/s Sunrise Aluminum — APPELLANT

Vs

State Bank Of India And Another — RESPONDENT

Date of Decision : 24-09-2024

Acts Referred:

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

Citation : (2024) 09 UK CK 0132

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Bilal Ahmed, N.S. Pundir, Dharmendra Barthwal

Final Decision : Dismissed

Judgement

Pankaj Purohit, J

1. By means of this writ petition the petitioner has challenged the order dated 23.08.2023 passed under Section 14 of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the SARFAESI Act) whereby the respondents Bank was directed to take possession of the secured assets i.e. mortgaged property.

2. It is submitted by the learned counsel for the respondents-Bank that the notice under Section 14 of the SARFAESI Act was issued to the petitioner on

23. 08.2023 and petitioner remained silent without challenging the said order before any forum, available to him under law.

3. It is contended by learned counsel for the respondents-bank that pursuant to the aforesaid notice possession of the secured assets have already been taken over by the bank on 05.09.2024. It is submitted by learned counsel for the respondents-bank that in between one year time has elapsed and petitioner remained silent and did not proceed for any kind of settlement with the

respondents-bank nor did he pay any single penny towards said outstanding loan amount.

4. Learned counsel for the respondents bank further relied upon the judgment passed by Hon'ble Apex Court in Special Leave to Appeal(C)No(s).22093-22094/2022;06.07.2023 M/s Phoenix Arc Private Limited vs. V. Ganesh Murthy & Another whereby it has been held that writ petition would not lie against the order passed under Section 14 of the SARFAESI Act as the remedy is available to the borrower before the Debt Recovery Tribunal established under The Recovery of Debts and Bankruptcy Act, 1993.

5. Accordingly, there is no scope to interfere with the aforesaid writ petition. The writ petition is dismissed.