
(2011) 04 AHC CK 0310
In the Allahabad High Court
Case No : C.M.W.P. No. 24905 of 2011

Narendra Singh Chauhan

APPELLANT

Vs

Bank of Baroda and another

RESPONDENT

Date of Decision : 29-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 4 AWC 4322 : (2011) 8 RCR(Civil) 3023

Hon'ble Judges : Satya Poot Mehrotra, J;Rajesh Chandra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satya Poot Mehrotra and Rajesh Chandra, JJ.—We have heard Shri L.M. Singh, learned counsel for the petitioner and Shri Manish Mehrotra, learned counsel for the respondent Nos. 1 and 2-Bank of Baroda.

2. As per the averments made in the writ petition, Rajendra Singh Chauhan, brother of the petitioner took housing loan for business purposes from the respondent No. 1-Bank in the year 2006. Arjun Singh, who was the father of the petitioner and the said Rajendra Singh Chauhan, stood guarantor for the said loan. The property in question was given as security for the said loan by the said Arjun Singh (guarantor). Default was committed in respect of the said loan. Consequently, proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "the Act") have been initiated. Auction Notice dated 16.1.2011 (Annexure-4 to the writ petition) has been issued in this regard.

3. The petitioner has filed the present writ petition, inter alia, praying for quashing the said Notice dated 16.1.2011 in-so-far as the share of the petitioner in the property in question is concerned.

4. In United Bank of India Vs. Satyawati Tondon and Others, their Lordships of the Supreme Court have laid down that in view of the alternative remedy

available under the Act the High Court in exercise of Writ Jurisdiction under Article 226 of the Constitution of India should normally not interfere in respect of the proceedings being taken under the Act.

5. In the present writ petition, the petitioner has impugned the proceedings being taken against him on various grounds.

6. In view of the aforesaid judgment of the Supreme Court and having regard to the nature of the controversy involved in the present writ petition, we are of the opinion that the petitioner be relegated to avail the alternative remedy of filing appeal/application u/s 17 of the Act before the Debts Recovery Tribunal.

7. The writ petition is accordingly dismissed on the ground of alternative remedy available to the petitioner of filing appeal/application u/s 17 of the Act before the Debts Recovery Tribunal.