

(2018) 08 UK CK 0041

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2146 of 2018

Prince Solanki

APPELLANT

Vs

Bank of India

RESPONDENT

Date of Decision : 08-08-2018

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 17

Citation : (2018) 08 UK CK 0041

Hon'ble Judges : SUDHANSHU DHULIA, J

Bench : Single Bench

Advocate : Bhupesh Kandpal, Vikas Pande

Final Decision : Dismissed

Judgement

SUDHANSHU DHULIA, J. (ORAL)

1. Supplementary affidavit filed on behalf of the petitioner today in the Court is taken on the record.

2. The petitioner had admittedly taken a loan from the respondent Bank, which he could not repay. Consequently, the account of the petitioner was

declared as "Non Performing Assets" and later the bank proceeded under the provisions of the Securitisation and Reconstruction of Financial

Assets and Enforcement of Security Interest Act, 2002 (from hereinafter referred to as the "Act") for recovery of the outstanding loan amount.

As of now, actual physical possession of the property has been taken by the bank.

3. On 26.7.2018, when this writ petition came up for hearing, considering the statement made by learned Counsel for the petitioner that the petitioner

has bona fide intention to pay the entire outstanding loan amount, this Court directed the petitioner to deposit a sum of Rs. 10,00,000/- (rupees ten

lakhs only) with the respondent bank to show his bona fide. Although a cheque of this amount was deposited by the petitioner, but learned Counsel for the petitioner fairly admitted that the said cheque has been dishonoured.

4. Learned Counsel for the respondent bank represented by Mr. Vikas Pande, Advocate, has vehemently argued that the petitioner has an alternative remedy to approach the Debts Recovery Tribunal as not only the proceedings have been initiated against him under the Act but even the actual

physical possession has also been taken by the bank. Therefore, the only remedy available to the petitioner is to approach the Debts Recovery

Tribunal under Section 17 of the Act.

5. In view thereof, the present writ petition is hereby dismissed in view of the alternative remedy.

6. Registry shall supply a certified copy of this order to learned Counsel for the petitioner today itself on payment of the prescribed charges.