
(2021) 12 UK CK 0131

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2654 Of 2021

Rekha Devi

APPELLANT

Vs

Punjab National Bank Housing Finance Ltd. & Others

RESPONDENT

Date of Decision : 13-12-2021

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 17

Citation : (2021) 12 UK CK 0131

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Vinay Kumar

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. Petitioner's husband, who was employed with ONGC as Chief Security Guard, took a housing loan from Punjab National Bank Housing Finance Ltd. in the year 2011.
2. According to the petitioner, the said loan was insured with TATA AIG Insurance Ltd., Dehradun. Petitioner's husband has passed away in the month of May, 2021. According to the petitioner, against the loan of Rs. 15.15 lakhs taken by petitioner's husband, he had repaid about Rs. 10 lakhs, during his lifetime.
3. Since the loan amount still remains to be paid, therefore, Punjab National Bank Housing Finance Ltd. has initiated proceedings under SARFAESI Act against the secured asset.
4. It is the contention of learned counsel for the petitioner that Debts Recovery Tribunal, Dehradun is not functioning on account of non-availability of Presiding Officer since last several months, therefore, the remedy of Section 17 of SARFAESI Act has become illusory in the case of the petitioner. He further

submits that since the loan was insured by TATA AIG Insurance Ltd., therefore, upon death of petitioner's husband, the liability to repay the loan rests upon TATA AIG Insurance Ltd.

5. Since the secured asset has been put for e-public auction scheduled to be held on 20.12.2021, therefore, having regard to the peculiar facts of the case, the writ petition is disposed of with the following directions:-

I. Petitioner shall be at liberty to make representation to TATA AIG Insurance Ltd. (respondent no. 3), within 48 hours.

II. If such representation is made, the Competent Authority in TATA AIG Insurance Ltd shall look into the matter and pass appropriate order, in accordance with law, on petitioner's representation, within two weeks from its receipt. Copy of the order passed on petitioner's representation shall also be communicated to Branch Manager, Punjab National Bank Housing Finance Ltd.

III. For a period of two weeks', the auction sale of the secured asset, if made, shall not be confirmed.

6. Let a certified copy of this order be issued today itself.