(2019) 12 UK CK 0108

In the Uttarakhand High Court

Case No : Civil Miscellaneous. Delay Condonation Application No. 16464 Of 2019 In Special Appeal No. 1025 Of 2019

Sandeep Singh And Another — APPELLANT

Vs

District Magistrate / Collector, Udham Singh Nagar And Others — RESPONDENT

Date of Decision : 16-12-2019

Acts Referred:

Securitisation And Reconstruction Of Financial Assets Andenforcement Of Security Interest Act, 2002 — Section 14, 17

Citation : (2019) 12 UK CK 0108

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : S.K. Mandal, Subhang Dobhal

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. The application, seeking condonation of 52 daysâ?? delay in preferring the appeal, is not opposed by Sri Subhang Dobhal, learned counsel for the

respondent-Bank. The delay is therefore condoned, and the application, seeking condonation of delay, stands allowed.

2. This Special Appeal is preferred against the order passed by the learned Single Judge in Writ Petition (M/S) No. 2514 of 2019 dated 17.09.2019.

3. Writ Petition (M/S) No. 2574 of 2019, along with Writ Petition (M/S) No. 1937 of 2018, were heard together, and disposed of by a common order.

In the said order, the learned Single Judge observed that the appellants-writ petitioners had, admittedly, taken a loan from the respondent-Bank which

they could not repay; the account of the appellants-writ petitioners was declared a â??non-performing assetâ??; proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the â??SARFAESI Actâ??) were initiated against

the appellants-writ petitioners for recovery of the loan amount; the mortgaged property has been directed to be delivered to the respondent-Bank, by

the District Magistrate under Section 14 of the SARFAESI Act; the appellants-writ petitioners sought time to pay the entire loan amount in

installments within a period of one year; however, the respondent-Bank was not inclined to accept their request considering their past conduct; and

since such an order cannot be passed except with the consent of the parties, the only remedy available to the appellants-writ petitioners was to

approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. The writ petition was, accordingly, dismissed.

4. While Sri S.K. Mandal, learned counsel for the appellants-writ petitioners, would contend that his Bank Account is still operational, and has not been

declared a non-performing asset, Sri Subhang Dobhal, learned Standing Counsel for the respondent-Bank, has placed before this Court the Account-

Statement of the appellant-writ petitioner by which his account has been declared as a non-performing asset. In any event, as has been held by the

learned Single Judge in the order under appeal, all these questions can be raised by the appellants-writ petitioners, invoking the jurisdiction of the Debts

Recovery Tribunalm under Section 17 of the SARFAESI Act.

5. We find no infirmity in the order under appeal necessitating interference. The Special Appeal fails and is, accordingly, dismissed.

6. Sri S.K. Mandal, learned counsel for the appellants-writ petitioners, requests that the appellants-writ petitioners, at least, be permitted to make an

application to the respondent-Bank for a one-time settlement; and that the respondent-Bank be directed to consider the same.

7. While we see no reason to issue any such direction, suffice it to observe that neither the order passed by the learned Single Judge, nor the order

now passed by us, shall disable the appellants-writ petitioners from making an application seeking a one-time settlement, and for the respondent-Bank

to consider the same if they so choose. No costs.