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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 5320 of 2007

PETITIONER : Vijay Singh Kothari, son of Late Laxmilal Ji Kothari, aged about 47 years, resident of Link Road, Camp – II, Bhilai, District Durg.

VERSUS

RESPONDENTS : 1. Union Bank of India, a banking company duly incorporated under the relevant provisions of Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 having inter-alia amongst other branches a branch office at Main Branch, Ramsagarpara, Raipur through the Branch Manager, Branch Office, Ramsagarpara, Raipur.
2. Akhil Bhartiya Guru Ghasidas Mahasamiti, a registered society under the Societies Act, 1959 having its registration No. 665 through its authorized representative Shri Gulab Jain, son of Shri Lalchand Jain, Managing Director, M/s. Bhilai Builders Pvt. Limited, B-2/11, Ravi Bhawan, G.E. Road, Raipur.
3. M/s. Bhilai Builders Pvt. Limited, B-2/11, Ravi Bhawan, G.E. Road, Raipur through the Managing Director Shri Gulab Jain, son of Shri Lalchand Jain, resident of Choubey Colony, Raipur.
4. Smt. Rachna Jain, wife of Shri Pramod Jain, aged about 38 years, resident of Near Gayatri Hospital, Rohinipuram, Raipur.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

SB: Hon'ble Shri Satish K. Agnihotri, J.

Present: Shri B.P.Sharma, Advocate for the petitioner.

ORDER

(Passed on 31st day of August, 2007)

1. Learned counsel appearing for the petitioner submits that the property in dispute has been transferred in favour of respondent no. 4 by the respondent no. 2 and 3 by way of two registered sale deeds for a valuable consideration of Rs. 5 Lacs. The sale amount given by cheque by the respondent No. 4 has been dishonoured. Thereafter, the petitioner entered into an agreement for

purchase of the said shop. The Bank, respondent No. 1 has created a charge over the said property without ensuring as to whether the sale in favour of respondent No. 4 was valid or not.

2. Be that as it may, this matter involves disputed question of facts and this Court lacks wherewithal to deal with the question of facts and even otherwise, there is no legal right or breach thereof, which can be considered by this Court under writ jurisdiction.
3. Thus, this petition is dismissed, summarily. However, the petitioner is at liberty to take recourse to other remedy that may be available to him under law in civil proceedings.

Sd/-
Satish K. Agnihotri
Judge