

**W. P. No.18888/13.****31.10.2013.**

Shri R. K. S. Chouhan, learned counsel for the petitioner.

Heard on the question of admission.

The petitioner has filed this petition under Article 226 of the Constitution of India for issuing appropriate writ for following reliefs.

1. To issue a writ in the nature of certiorari, for quashing the letter bearing No.JPB/ADV/BSR/13-14 dated 3.10.2013 (Ann. P.9) issued by the respondent No.2 by declaring the same as arbitrary, malafide, illegal and concocted with the specific direction that D. D. amount Rs.5,00,000/- has immediately refund to the petitioner with liberty to deposit the same after the settlement of disputes between the respondent bank and the respondent No.4 to 6.
2. To issue a writ in the nature of Certiorari, for quashing the entire sale proceedings initiated by the respondent bank related to allege mortgaged property (secured assets) of the petitioner and also subsequent act/action taken by the respondents related to the sale proceedings of the mentioned property of the petitioner.
3. To issue a writ in the nature of mandamus, restraining the respondents for taking any coercive steps against the immovable subject property of the petition, in violation of the statutory provisions of SARFEASI Act, 2002 and the Rules, 2002.

4. To issue a writ of nature of mandamus, commanding the respondent Nos.1 to 3 to settle the matter of dispute with respondent No.4 to 6 and permit the petitioner to liquidate the entire dues of the respondents bank and to redeem his alleged mortgaged property i.e. Secured assets after the said settlement.
5. Cost of the present proceedings may be awarded along with the compensation to the petitioner.
6. Any other writ, order or direction as this Hon'ble Court may deems fit and proper looking to the facts and circumstances of the present case may also be issued in favour of the petitioner, including the cost of the litigation, in the interest of justice.

The petitioner's counsel after taking me through the averments of the petition along with the papers placed on record argued the matter on admission but in response of the query of the Court that in view of availability of alternate forum for the dispute raised in this petition under Section 17 of the SARFEASI Act, 2002 before D. R. T. how this petition filed under Article 226 of the Constitution of India could be entertained for issuing the writ as prayed in the petition, on which instead to argue further he seeks permission to withdraw this petition with liberty to approach the D. R. T. to resolved the dispute raised in this petition with further prayer that till deciding his stay application in the aforesaid proceeding before the DRT, the proceedings which is being carried out by the authorities of the respondent No.1 to 3 with respect of the property of the petitioner be not finalized.

Considering the aforesaid prayer, without expressing any opinion on merits of the matter the petition is hereby dismissed as withdrawn and not pressed with liberty aforesaid. However, it is observed that on filing the aforesaid proceeding before DRT within next two days then till deciding the interim application by the DRT either ex-parte or bye-parte order the impugned proceeding, which is being carried out by the authorities of the respondent No.1 to 3 with respect of the property stated in the petition be not finalized. It is made clear that after filing the aforesaid proceeding before the DRT and / or passing the order on interim application, such party shall be governed by the order of the DRT. If the aforesaid application not filed within the prescribed period then the petition shall not be entitled to get the benefit of aforesaid direction.

The petition is disposed of accordingly.

C. C. today.

(U. C. Maheshwari)  
Judge

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