

Court No. - 3

Case :- WRIT - C No. - 24729 of 2017

Petitioner :- Churamani Sharma And Another

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Manoj Kumar Singh

Counsel for Respondent :- A.S.G.I., Anant Tiwari, Dharmendra Vaish

Hon'ble Krishna Murari, J.

Hon'ble Ravindra Nath Kakkar, J.

Heard learned counsel for the petitioners and Shri Anant Tiwari, who has put in appearance on behalf of respondent no. 1.

Petitioners availed the facility of housing loan from respondent no.3-Bank to the tune of Rs.20 lacs. Petitioners further took a top-up loan of Rs.5 lacs on 05.07.2013. Admittedly, there was a default in repayment of the loan and the respondent-Bank initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Notice under Section 13 (2) of the Act was issued to the petitioners for payment of a sum of Rs.27,64,716/- with future interest. The petitioners made an application before the respondent-Bank for sale of the mortgaged property and to realise the outstanding dues as they were not in a position to repay the loan.

After making the aforesaid application, they have approached this Court seeking a mandamus to command the respondent-Bank to sell out the mortgaged asset for realisation of the dues and not to pressurise him for the payment of dues against the loan amount.

Undoubtedly, the proceedings under the SARFAESI Act has been initiated against the petitioners and notice under Section 13(2) of the Act has been issued. There is no reason to doubt that the Bank will not proceed in the matter further and take all such steps as provided under the Act for realisation of the loan, which includes the auction sale of the mortgaged property, however, the same is to be carried out in accordance with the procedure prescribed under the Act and the Rules.

We see no reason to issue a mandamus commanding the respondent-Bank to straightaway sell out the mortgaged assets, as suggested by the learned counsel for the petitioners without following the due procedure. In such facts and circumstances, the relief prayed for by the petitioner is not liable to be granted.

Writ petition, accordingly, fails and stands dismissed in limine.

Order Date :- 30.5.2017/VKS