

The High Court of Madhya Pradesh : Bench At Indore

DIVISION BENCH : HON'BLE MR. JUSTICE VIVEK RUSIA
HON'BLE MR. JUSTICE AMAR NATH (KESHARWANI)

WRIT PETITION No. 9312 of 2022

Between:-

AU SMALL FINANCE BANK LIMITED THROUHG
THEIR AUTHORIZED OFFICER SHRI AMBRISH
TIWARI S/O SHRI KESHAV PRASAD TIWARI
OCCUPATION: ASSISTANT VICE PRESIDENT LEGAL A
BODY CORPORATE CONSTITUTED UNDER THE
COMPANIES ACT, HAVING ITS HEAD OFFICE AT 19-A,
DHULESHWAR GARDEN, AJMER ROAD, C-SCHEME
JAIPUR RAJASTHAN AND A BRANCH AMONGST
OTHERS AT HOSHANGABAD ROAD BHOPAL AND AU
SMALL FINANCE BANK LIMITED 6TH FLOOR DHAN
TRIDENT OPP. SATYASAI SCHOOL, VIJAY NAGAR
(MADHYA PRADESH)

.....PETITIONER

AND

1. THE DISTRICT MAGISTRATE DHAR (MADHYA PRADESH)
2. THE SUB DIVISIONAL MAGISTRATE DHAR (MADHYA PRADESH)
3. SHRI RATADIP AGRAWAL S/O SHRI LATE SHRI MADHUSUDAN AGRAWAL OCCUPATION: BUSINESS WARD NO. 8, MHOW NEEMUCH ROAD, PITHAMPUR, (MADHYA PRADESH)
4. SMT. JYOTI AGRAWAL W/O SHRI RATANDIP AGRAWAL OCCUPATION: HOSUE WIFE WARD NO. 8, MHOW NEEMUCH ROAD, PITHAMPUR, (MADHYA PRADESH)
5. SHRI SHASHANK AGRAWAL S/O SHRI RATANDIP

AGRAWAL OCCUPATION: BUSINESS WARD NO. 8,
MHOW NEEMUCH ROAD, PITHAMPUR, (MADHYA
PRADESH)

6. SHRI VIKRAM VERMA S/O SHRI MANAKJI VERMA
OCCUPATION: BUSINESS WARD NO. 12 NEAR
HANUMAN TEMPLE PITHAMPUR, (MADHYA
PRADESH)

.....RESPONDENTS

Indore, dated 29.04.2022

Ms. Darshana Baghel, learned counsel for the petitioner.

Shri Manish Nair, learned Deputy Advocate General for
the respondent / State.

Heard on the question of admission.

O R D E R

By way of this writ petition under Article 226 of the
Constitution of India, the petitioner is seeking following relief:-

7.1 It is, therefore, prayed that your lordships may
graciously be pleased to pass an appropriate writ order or
direction to show-cause the respondent No.3 to 6 who with
an intention to defraud and in collusion suppressed the
material fact about the death of co-borrower/co-
applicant/mortgager i.e. Late Shri Madhusudan Agrawal
on 10.06.2017 and thus used dilatory tactics to deliberately
delay the handover of physical possession of secured asset
reflected in Annexure P-2 dated 22.07.2021 in the interest
of justice.

7.2. Any other relief which this Hon'ble Court deems fit
and proper in the facts and circumstances of the case.

It is not clear from the aforesaid reliefs whether petitioner

is seeking writ, order or direction from this Court. It is not in dispute that the borrower has approached the Debt Recovery Tribunal after the order dated 29.10.2021 passed in W.P. No.24036 of 2021. All the objections in respect of alleged fraud committed by the borrower in respect of debt of the mortgager can be raised before the DRT.

In view of the above, the Writ Petition stands dismissed.

(VIVEK RUSIA)
J U D G E

(AMAR NATH (KESHARWANI))
J U D G E

Ravi

Digitally signed by RAVI PRAKASH
Date: 2022.04.30 11:07:12 +05'30'