



GAHC010270832017

Page No.# 1/16



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(I/O)/80/2017

ON THE DEATH OF ARUNA SHARMA HER LEGAL HEIR,
SHRI HIMADRI SHARMA, S/O LT. PABAN KUMAR SHARMA, DIRECTOR OF
M/S PIBCO PVT. LTD., R/O HOUSE NO. 10, HIMAJAL APARTMENT,
SHADABOR AVENUE, ZOO NARENGI ROAD (MOTHER TERESA ROAD), P.O.
GUWAHATI- 781021, DIST. KAMRUP M, ASSAM

VERSUS

HDFC BANK LTD. and 5 ORS.
HAVING ONE OF ITS BRANCH OFFICE AT PIBCO BUILDING, 1ST FLOOR,
G.S. ROAD, RUKMINI GAON KHANAPARA, GUWAHATI - 781022, DIST.
KAMRUP M, ASSAM

2:SRI SAIKAT MUKHERJEE
MANAGER
HDFC BANK LTD. JARDINE HOUSE
1ST FLOOR
4 CLIVE ROW
KOLKATA- 700001.

3:M/S PIBCO INDIA PVT. LTD.
G.S.ROAD
DISPUR
GUWAHATI - 781022
DIST. KAMRUP M
ASSAM

4:SRI PRANJAL KUMAR SHARMA
S/O LT. PABAN KUMAR SHARMA DIRECTOR OF M/S PIBCO INDIA PVT.
LTD. C/O IOSIS
GROUND FLOOR
PIBCO BUILDING



G.S. ROAD
KHANAPARA
DIST. KAMRUP M
ASSAM

6:SRI BIPUL BORO
S/O SRI BABU RAM BORO LALMATI
BELTOLA
GUWAHATI- 781029
DIST. KAMRUP M
ASSA

Advocate for the Petitioner : MR.S KHAN

Advocate for the Respondent : Mukesh Sharma

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

JUDGMENT

Date : 14-09-2021

The supervisory jurisdiction of this Court conferred by Article 227 of the Constitution of India is sought to be invoked whereby a challenge has been made to an order dated 24.11.2016 passed by the learned Debt Recovery Tribunal, Guwahati (DRT) in IA/33/2016 arising out of OA No.216/20216.

- 2.** By the impugned order, the learned DRT has appointed one Shri Saikat Mukherjee, respondent no. 2 as the Receiver to take possession of the immovable as well as the movable properties which are the subject matter of the recovery proceedings instituted by the respondent no. 1-Bank before the DRT.
- 3.** Before going to the issue which calls for determination, the facts of the case are required to be stated in brief.
- 4.** The initial petitioner was one Smti. Aruna Sharma and the respondents were the



applicant-Bank (respondent no. 1), the Receiver appointed (respondent no. 2) and the company which had taken the loan (respondent no. 3). However, it appears that after filing of the present revision petition, vide an order dated 19.05.2017 passed in IA(C)/1617/2017, respondent nos. 4, 5 and 6 have been impleaded. The said respondents are, Shri Pranjal Kumar Sharma (respondent no. 4), Shri Himadri Sharma (respondent no. 5) and Shri Bipul Boro (respondent no. 6). It further appears that during the pendency of this proceeding, the sole petitioner had passed away and accordingly, IA(C)/3732/2019 was filed with a prayer to substitute the sole petitioner by her son, who was already on record as the respondent no. 5. Though on perusal of the interlocutory application, it appears that the prayer was to transpose the respondent no. 5 to the position of the petitioner, when the application was taken up for consideration, due to lack of representation, this Court was not properly apprised of the facts and circumstances for which the application was simply allowed by directing the applicant be substituted as the legal representative of the petitioner. Though no specific order for transposing the respondent no. 5 as petitioner was passed, in the interest of justice and fairness, this Court proposes to proceed with this matter by holding that the respondent no. 5 has been struck off and he is the sole petitioner in the instant case.

5. Coming to the merits of the challenge, the primary ground which has been urged in the petition is with regard to the jurisdiction while exercising powers under Section 19 (18) of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as the 1993 Act). It is submitted that the conditions precedent in exercising of such powers being apparently absent, the impugned order dated 24.11.2016 suffers from jurisdictional error and is liable to be declared as *non est*.

6. On the other hand, the respondent-Bank which has contested the proceedings and has also filed an affidavit-in-opposition has submitted that the ground urged is without any basis and there is no jurisdictional error of any kind which makes the order liable for any interference by this Court.

7. I have heard Shri OP Bhati, learned counsel for the petitioner, who is assisted by Shri



TC Das, learned counsel whereas Shri D Saikia, learned Senior Counsel assisted by Shri M Sharma, learned counsel appears for the respondent-Bank.

8. Shri Bhati, learned counsel by referring to the 1993 Act, more specifically, Section 19 (18) submits that Section 19 is a part of Chapter-V of the 1993 Act which lays down the procedure of Tribunals. Sub-section (18) thereof is in connection with the procedure to be adopted for appointment of a Receiver and ancillary purposes. The learned counsel contends that the condition precedent for exercising powers to appoint a Receiver is that it has to appear to the Tribunal to be just and convenient that a Receiver be appointed. By drawing the attention of this Court to the impugned order, Shri Bhati, learned counsel has contended that the only consideration for passing the order is non-appearance of the contesting defendants and their failure to oppose the prayer for appointment of such Receiver. It has been urged that the impugned order dated 24.11.2016 does not contain any discussion on materials from where a satisfaction has been arrived at regarding the fulfillment of the condition precedent that it should appear to the Tribunal to be just and convenient and accordingly, it has been argued that the order suffers from jurisdictional error and is accordingly liable to be declared *non est* in law.

9. Shri Bhati, learned counsel clarifies that though the original application pertains to properties under three schedules, namely, Schedule-A, B and C, his contest in the present proceeding pertains to only Schedule-B which, accordingly to him, is a residential property wherein the original petitioner and upon her death, the substituted petitioner, who is her son, is residing. Alternatively, he submits that the appointment of Receiver cannot, in any way advance the cause of the respondent-Bank in making the recovery and other than causing harassment, no fruitful purpose would be served. Reiterating his argument that the order may be made applicable so far as Schedule-A and C are concerned which are commercial properties, if the order is made applicable to Schedule-B, irreparable loss and injury would be suffered by the petitioner. The learned counsel for the petitioner submits that this Court while considering the matter, vide order dated 15.05.2017 had passed an interim order which is continuing till date. Shri Bhati further submits that in the original application, OA No.



216/2016, there is already an order of injunction which is in operation and under those circumstances, there was absolutely no need even to file any application for appointment of a Receiver, as the interest of the respondent-Bank was fully protected. Attention of this Court has also been drawn to Order 40 Rule 1 of the CPC which is in connection with the power of a Civil Court to pass orders for appointment of Receiver and it has been submitted that the condition precedent are *pari materia* in nature which are mandatorily required to be followed. In support of his submissions, the learned counsel has placed reliance upon the following case laws:

- i) ***Whirlpool Corporation Vs. Registrar of Trade Marks, (1998) 8 SCC 1;***
- ii) ***Commissioner of Income Tax & Ors. Vs. Chhabil Dass Agarwal, (2014) 1 SCC 603;***
- iii) ***United Bank of India Vs. Satyawati Tondon & Ors., (2010) 8 SCC 110;***
- iv) ***Industrial Credit and Investment Corporation of India Ltd. & Ors. Vs. Karnataka Ball Bearing Corporation Ltd. & Ors.; (1999) 7 SCC 488;***

10. In the case of ***Whirlpool Corporation*** (*supra*), the Hon'ble Supreme Court has laid down at least three contingencies where alternative remedy would not stand as a bar for exercise of jurisdiction under Article 226 of the Constitution of India. The said case would be taken up for consideration in detail later in the judgment.

11. The case of ***Chhabil Dass Agarwal*** (*supra*) has been cited in support of the plea that alternative remedy shall not be absolute bar. After discussing the various case laws holding the field, the following observations were made:

“19. Thus, while it can be said that this Court has recognized some exceptions to the rule of alternative remedy, i.e., where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to

invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case, Titagarh Paper Mills case and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.”

12. The case of **Satyawati Tondon** (*supra*) has been cited for the same purpose. However, this Court has noticed that in the said case, the Hon’ble Supreme Court has put a note of caution regarding exercise of jurisdiction under Article 226 of the Constitution of India in matters concerning the DRT Act and SARFAESI Act in the following terms:

“27. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

13. The case of **Industrial Credit and Investment Corporation of India Ltd.** (*supra*) has been cited to bring home the submission regarding the conditions which would justify appointment of a Receiver. This Court has noticed that though the aforesaid judgment was rendered in the context of Order 40 Rule 1 of the CPC, the provision contained in the DRT Act regarding appointment of Receiver is *pari materia* in nature. The following observations of the Hon’ble Supreme Court would be relevant:

“6. Order 40, Rule 1 of the Code of Civil Procedure expressly provides for the appointment of a Receiver over a property whether before or after the decree and the Court may by an order confer on to the Receiver all powers of realisation, management, protection, preservation and improvement of the property. Order 40, sub-rule (1)(d) specifically provides for realisation and the words 'or such of those powers as the Court thinks fit' appearing in Order 40, Rule 1(d) ought to be interpreted in a manner so as to give full effect to the legislative intent in the matter of conferment of powers by the Court to preserve and maintain the property through the appointment of a Receiver. Needless to record here that there is existing a power which is totally unfettered in terms of the provisions of the Statute. Law courts, however, in the matter of appointment of a Receiver through a long catena of cases, imposed a self imposed restriction to the use of discretion in a manner which is in consonance with the concept of justice and to meet the need of the situation - 'unfettered' does not and cannot mean unbridled or unrestrictive powers and though exercise of discretion is of widest possible amplitude, but the same has to be exercised in a manner with care, caution and restraint so as to subserve the ends of justice. The law courts are entrusted with this power under Order 40, Rule 1 so as to bring about a feeling of securedness and to do complete justice between the parties.

7. The language of Order 40 thus being of widest possible import, any restriction as regards the power of the Court to direct a Receiver to effect a sale of immovable property prior to the decree does not and cannot arise. Order 40, Rule 1 and various sub-rules thereunder unmistakably depict that the Court has unfettered powers in the event the Court feels, that the sale of property would be just and convenient having due regard to the situation of the matter. The pronouncement of the Full Bench as regards creation of an embargo in regard thereto seems to be rather too wide. The Court must consider whether special interference with the possession of the defendant is required or not and in the

event the Court comes to such a conclusion that there is likelihood of the immovable property, in question be, dissipated or some such occurrences as is detailed more fully hereinafter or party initiating the action suffering irreparable loss, unless the Court gives appropriate protection, there should not be any hesitation in directing the sale of immovable property. The Privy Council in Maharadhiraj Sir Rameshwar Singh Bahadur v. Hitendra Singh, AIR 1924 PC 202 at page 204 observed :-

"In particular, under the terms "realisation, management, protection," etc. of the properties a power of sale is not taken away from but is still vested in the Receiver. And if, for instance, such a power of sale had been exercised in good faith and in the interests of the estate with the sanction of the Court, such a transaction could have not have been challenged as ultra vires."

14. *Per contra*, Shri D Saikia, learned Senior Counsel for the contesting respondent-Bank raises a preliminary objection on the maintainability of the present petition on more than one count. By referring to the impugned order dated 24.11.2016, Shri Saikia, learned Senior Counsel submits that a bare reading of the same would make it amply clear that it is not only the other defendants, namely, defendant nos. 1, 3, 4 and 5, who did not even appear, even the defendant no. 2 (original petitioner) in the present petition neither appeared nor had filed any written objection.

15. The order specifies that on three occasions, the matter was adjourned giving opportunity to file written objection which was not availed of and accordingly, there is an observation that the right to file written objection stood closed. Under such circumstances whether the petitioner would be able to raise the objection for the first time in this Court exercising supervisory jurisdiction is questioned by the learned Senior Counsel for the respondent-Bank. Drawing the attention of this Court to the three Schedules which consist of the properties, it is submitted that Schedule-A which was initially the showroom of the defaulter company has already been encumbered by creating third party right in the form of

rent or lease and it is submitted that a number of litigations are already on between the contesting respondent-Bank and the lessee. The properties under Schedule-C are movable properties, most of which are not in existence as on present day and the only property in which by appointing a Receiver an effective step can be taken is the property under Schedule-B. By going to the facts of the case, the learned Senior Counsel submits that a huge loan about Rs. 17 crores was taken by the respondent-Company in the year 2012 for opening of a dealership of Mahindra & Mahindra vehicles and within a span of year, the business account of the company was declared Non-Performing Asset (NPA). Immediately thereafter the showroom was rented and construction activities were done so that third party rights could be created. It was thereafter that the OA No. 216/2016 was instituted before the DRT, Guwahati.

16. On the point of maintainability of the petition, Shri Saikia, learned Senior Counsel has drawn the attention of this Court to Section 19 (18) of the 1993 Act which gives the power to the Tribunal to appoint a Receiver either before or after the grant of certificate for recovery of debt and therefore, it is contended that the case projected by the petitioner that a Receiver could not be appointed even before determination of the amount cannot be a valid argument. The learned Senior Counsel submits that by failure to contest the interlocutory application, the petitioner has waived her right. By referring to Section 18 of the 1993 Act, it is submitted that though the bar of jurisdiction excludes the jurisdiction of a High Court under Articles 226 and 227 of the Constitution of India, such a petition would be maintainable in the event when there is gross violation of the procedure, non-adherence to the principles of natural justice or when the order appears to be wholly unreasonable. However, in the instant case, in absence of any of the aforesaid conditions and in the availability of the scope to appeal provided under Section 20, the present petition cannot be entertained. By referring to Section 20 which deals with appeal to the appellate tribunal, the learned Senior Counsel submits that appeal would lie against any order and the expression 'order' is not qualified by any other expression. Dealing with Section 21, Shri Saikia submits that the question of deposit would come only when an amount is involved and therefore, it would not lie on the part of the present petitioner that because of the requirement of Section 21, an appeal cannot be preferred. The learned Senior Counsel submits that as on today, the liability would be more than Rs.30



crores and the step taken for appointment of a Receiver is in the interest of public wherein a huge amount of public money is involved.

17. On merits, the learned Senior Counsel submits that the discussion preceding the direction passed in the order dated 24.11.2016 would reveal that there has been proper application of mind and the apprehension expressed by the contesting respondent-Bank has also been taken into consideration. In that view of the matter, the learned Senior Counsel submits that the Tribunal had come to a satisfaction that it would be just and convenient to pass an order for appointment of a Receiver.

18. By drawing the attention of this Court to the application filed for appointment of Receiver by the respondent-Bank, Shri Saikia, learned Senior Counsel by specifically referring to the pleadings made in paragraph 12 has submitted that the defendants were changing the nature and feature of the mortgaged properties by starting construction and renovation in spite of the earlier order dated 30.06.2016 whereby there was a restraint imposed by the Tribunal.

19. Though the learned Senior Counsel has also raised the point of maintainability of the petition in its present form where the petitioner and the respondent no. 5 is the same, Shri Saikia fairly submits that since the prayer in the IA(C)/3732/2019 appears to be in order and the disposal order was passed in absence of the learned counsel for the applicant, he would not be seriously pressing this point. In support of his submissions, Shri Saikia has placed reliance on the following decisions:

- i) *Birendra Poddar Vs. Presiding Officer & Anr., WP(C)/6085/2017*, judgment dated 22.09.2017 (Division Bench);**
- ii) *T.P Vishnu Kumar Vs. Canara Bank & Ors., (2013) 10 SCC 652*;**
- iii) *United Bank of India Vs. Satyawati Tondon, (2010) 8 SCC 110*;**
- iv) *Punjab National Bank Vs. O.C. Krishnan, (2001) 6 SCC 569*;**



v) *Authorised Officer, State Bank of Travancore Vs. Mathew K.C., (2018) 3 SCC 85.*

20. In the case of ***Birendra Poddar*** (*supra*), a Division Bench of this Court after relying on the case of ***Satyawati Tondon*** (*supra*) and ***T.P Vishnu Kumar*** (*supra*) had declined to entertain the writ petition in view of the availability of statutory remedy by way of appeal provided under Section 20 of the DRT Act. In the said case, a judgment passed by the DRT, Guwahati was the subject matter of challenge.

21. In the case of ***T.P Vishnu Kumar*** (*supra*), the Hon'ble Supreme Court has laid down that under ordinary circumstances, the High Court would decline to exercise the jurisdiction under Article 226 of the Constitution of India when statutory remedy in the form of Section 20 of the 1993 Act is available. The case of ***Satyawati Tondon*** (*supra*) has been relied upon for the same proposition.

22. In the case of ***O.C. Krishnan*** (*supra*), Hon'ble Supreme Court has taken a stricter view that the fast track procedure inbuilt in the 1993 Act cannot be allowed to be derailed by taking recourse to a proceeding under Articles 226 and 227 of the Constitution of India. The case of ***Mathew K.C.*** (*supra*) has been relied on in support of the plea of availability of an alternative remedy.

23. Shri Saikia, learned Senior Counsel by referring to the provision of Section 20 of the 1993 Act has contended that the scope of appeal is available to challenge any order, and in this regard, he has relied upon a judgment of the Calcutta High Court in ***Jenson and Nicholson (India) Ltd. Vs. Industrial Investment Bank of India***, reported in **AIR 2002 Cal 73**.

24. Shri Bhati, learned counsel for the petitioner submits that filing of an application for appointment of a Receiver cannot be said to be the only recourse even assuming there is violation of the order of injunction as Section 19 (17) lays down the procedure to initiate



contempt proceeding in case of such violation. The learned counsel for the petitioner further submits that the judgments relied upon by the respondent-Bank are to be examined under the facts and circumstances of those cases which are distinguishable from the case in hand.

25. The rival submissions made by the learned counsel for the parties are duly considered and the materials before this Court have been carefully examined.

26. First let us examine the point of maintainability of the present petition. It is submitted that an appeal being provided in the 1993 Act under Section 20 thereof which would include any kind of order, the present petition is not maintainable. It has also been submitted that though the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India is not excluded from the bar of jurisdiction laid down in Section 18, unless there is gross violation of the procedure or that of the principles of natural justice or order in question appears to be wholly unreasonable, this Court would be loath in exercising its jurisdiction under Article 226 or 227 of the Constitution of India.

27. There is no manner of doubt that the Act has also laid down the provisions for appeal against any order, the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India has been specifically excluded from the bar of jurisdiction laid down in Section 18 of the Act. In fact, even without such exception being specifically mentioned, the Hon'ble Supreme Court in the case of **L Chandra Kumar Vs. Union of India**, reported in **AIR 1997 SC 1125** has held that the powers of judicial review are part of the basic structure of the Constitution of India and cannot be taken away by any statute. Further, the Hon'ble Supreme Court in the case of **Whirlpool Corporation Vs. Registrar of Trade Marks**, reported in **(1998) 8 SCC 1** has laid down that mere existence of an alternative remedy may not stand as a complete embargo in exercise of jurisdiction of a High Court under Article 226 of the Constitution of India in the event of certain preconditions which are as follow:

“ 14. *The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of*

the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

*15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. By the alternative remedy has been consistently held by this Court not to operate as a bar **in at least three contingencies**, namely, where the writ petition has been filed for the enforcement of any of the Fundamental rights or where there has been a violation of the principles of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case law on this point but to cut down this circle of forensics whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."*

28. Under these circumstances, this Court is of the opinion that the petition is not liable to be non-suited on the ground of jurisdiction and therefore, the present petition is taken up on merits. As regards the other ground on the maintainability of the petition in its present form, this Court has already noticed above that it was an inadvertent error on the part of the petitioner in not pointing out to strike off the name of respondent no. 5 while transposing the respondent no. 5 to the position of the petitioner on the death of the original petitioner which was directed vide order dated 17.06.2020 in IA(C)/3732/2019.

29. This Court is therefore left to examine the principal ground of challenge as to whether the learned Tribunal was within its jurisdiction to pass the impugned order dated 24.11.2016. It is submitted on behalf of the petitioner that the condition precedent for exercise of such

jurisdiction is that it should appear to the Tribunal that the order required to be passed to be just and convenient. For ready reference the aforesaid provision is extracted hereinbelow:

“19. (18) Where it appears to the Tribunal to be just and convenient, the Tribunal may, by order—

(a) appoint a receiver of any property, whether before or after grant of certificate for recovery of debt;

(b) remove any person from the possession or custody of the property;

(c) commit the same to the possession, custody or management of the receiver;

(d) confer upon the receiver all such powers, as to bringing and defending suits in the courts or filing and defending applications before the Tribunal and for the realisation, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Tribunal thinks fit; and

(e) appoint a Commissioner for preparation of an inventory of the properties of the defendant or for the sale thereof.”

30. It has also been submitted that when an order of injunction was already operating, there was no requirement for filing of the present petition for appointment of a Receiver.

31. A reading of Section 19 (18) would reveal that there is no restriction imposed on filing such a petition when a restraint order is already in operation. The only requirement is that it should appear to the Tribunal to be just and convenient. The expression just and convenient involves as subjective satisfaction of the Tribunal and cannot be decided in an objective manner. Such subjective satisfaction, however, can be deciphered by reading of the order which is impugned in the present petition. The order dated 24.11.2016 reveals that apart from the fact that proceeding was *ex parte* against the respondent nos. 1, 3, 4 and 5, even

the original petitioner herein did not file any written objection and had also not appeared on the date. The learned Tribunal has also put on record that the same situation existed on three earlier occasions when the matter had to be adjourned in the interest of justice. The apprehension of the Bank and the pleadings contained in the application for appointment of Receiver, which includes changing the nature and feature of the suit property, which have never been rebutted at any point of time, were the considerations before the learned Tribunal. This Court is of the opinion that such considerations are relevant considerations which are germane to the subject which call for determination.

32. In view of the aforesaid facts and circumstances, it is difficult for this Court to accept the submission made on behalf of the petitioner that there is any jurisdictional error in passing the order dated 24.11.2016.

33. The present petition has been filed by invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. It is no longer *res integra* that such jurisdictions are to be exercised in a circumscribed manner and only on existence of certain conditions. Such conditions (which are not exhaustive) are :

- i) Acting without jurisdiction;
- ii) Failure to exercise jurisdiction conferred by law;
- iii) Acting with blatant illegality or with material irregularity,
- iii) Acting in gross violation of the principles of natural justice,
 - iv) Acting in a manner which do not appear to be reasonable to a man of original prudence,

34. None of the aforesaid conditions appear to be existing in the present case and therefore, in the opinion of this Court, no case for interference in exercise of powers under Article 227 of the Constitution of India is made out.

35. At this stage, Shri Bhati, learned counsel for the petitioner submits that a reasonable time be given to vacate the Schedule-B property. Shri Sharma, learned counsel for the



respondent-Bank undertakes that at least 45 days would be given from the date of issuance of notice.

36. In view of the above, the present civil revision petition is dismissed. The interim order passed earlier accordingly stands vacated. No order as to costs.

JUDGE

Comparing Assistant