

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

**HON'BLE SHRI JUSTICE ANAND PATHAK
&
HON'BLE SHRI JUSTICE HIRDESH**

WRIT PETITION NO. 27387 of 2025

ON THE 16th OF JULY, 2025

SMT. REEMA GUPTA & ORS.

Vs.

STATE OF M.P. & ORS.

APPEARANCE:

*Shri Raja Girraj Sharma – Advocate for the petitioners.
Shri Vijay Sundaram – Government Advocate for the
respondents/State.*

ORDER

Per: Justice Anand Pathak,

1. The present petition under Article 226 of the Constitution is preferred by the petitioners seeking following reliefs:

“It is therefore, most humbly prayed that this Hon'ble Court may kindly be pleased to allowed the present petition and this further prayed that the order Ann. P/1 dated 21.04.2025 passed by the respondent No.2 may kindly be set-aside and it is further prayed that the action taken by the respondent No.4 against the property of the humble petitioners may also be quashed and it is also prayed that the respondent No.3 may kindly be directed to initiate inquiry upon the application Ann. P/13 Colly in the interest of Justice.”

2. Matter pertains to recovery of loan. The loan was taken by respondent

No.6 from Utkarsh Small Finance Bank Limited (respondent No.5) vide agreement dated 18-01-2022 for which the security was given by late Rameshchandra Gupta (father of petitioners and respondents No.6&7) of the property purchased by him vide registered sale deed dated 24-04-2011. Thereafter, since respondent No.6 stopped making payment of loan amount, therefore, proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “the Securitization Act”) started. After conclusion of proceedings, Collector, District Datia passed the order dated 21-04-2025 directing concerned Tahsildar to take over the possession of property kept under security and hand it over to the Bank. Therefore, petitioners are before this Court.

3. It is the submission of learned counsel for the petitioners that the loan was taken by respondent No.6 by playing fraud with his father late Rameshchandra Gupta as late Rameshchandra Gupta had never given any guarantee to the loan taken by respondent No.6. Complaints have also been made by the petitioners in relation to the fraud committed by respondent No.6 to the various authorities but no heed has been paid. It is further submitted that prior to passing the order impugned, no compliance of Section 13(2) of the Securitization Act has been made as petitioners were never served with any notice. Thus, prayed for setting aside the order impugned.
4. Learned counsel for the respondents/State opposed the submission and prayed that the order impugned Annexure P/1 is appealable therefore, petitioners have alternative remedy. Thus, prayed for dismissal of this petition.
5. Heard learned counsel for the parties and perused the documents

appended thereto.

6. This is a case where the petitioners are challenging the order impugned passed under Section 14(2) of the Securitization Act. Loan was taken by respondent No.6 who is brother of petitioners under the security of the property purchased by late Rameshchandra Gupta (father of petitioners) and since respondent No.6 failed to make payment of loan therefore, the order impugned Annexure P/1 has been passed for taking possession of the property kept under security.
7. Considering the rival submissions advanced by learned counsel for the parties and the fact that the order impugned Annexure P/1 is appealable, therefore, instead of passing the order on merits, the present petition is disposed of with the direction to the petitioners to avail the alternative remedy as available to them under Section 17 of the Securitization Act before the Debt Recovery Tribunal.
8. Writ Petition stands **disposed of in above terms.**

(ANAND PATHAK)
JUDGE

(HIRDESH)
JUDGE