

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.155 OF 2023**

Smt. Anju Shil(Debbarma)
Vs.
The State of Tripura and ors.

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR JUSTICE ARINDAM LODH**

Present:

For the Appellant(s) : Mr. A. Acharjee, Advocate.
For the Respondent(s) : Mr. Saumyadeep Saha, Advocate.

23.03.2023

Order

The case of the petitioner herein is that the petitioner purchased a land including tin made home measuring 0.0450 acres from one Srabani Das through a registered sale deed vide No.1-5722 dated 22.08.2014. Thereafter, the petitioner started to reside in the said land. The petitioner took a loan of Rs.20,00,000/- from the Punjab National Bank, Circle Sasta Centre, Agartala, and after taking the loan, the petitioner has repaid some installment loan amount of Rs.9,00,000/- and a due loan amount of Rs.23,30,819/- is unpaid by the petitioner. Respondent No.3, served an E-auction sale Notice through newspaper upon the petitioner without taking any possession of the said land. Respondent No.3 also published E-auction Notice. Thereafter, the petitioner filed a suit Under Section 5 of

the specific relief Act, 1963. The suit was registered as T.S.06/2021 and the said information was given to the Authorized Officer, Punjab National Bank, Circle Sastra Centra, Agartala. But the Punjab National Bank took possession of the suit land with the help of SDM Sadar during the pendency of the suit.

The petitioner has also filed a writ petition vide no.WP(C)67 of 2021 before this Court for directing the respondents to cancel the E-Auction sale process against the petitioner regarding the E-Auction of the land measuring 0.0450 acres as published in the newspaper on 27.12.2020.

After hearing the writ petition, the same was disposed in the following terms:-

"The SARFAESI Act makes detailed provisions for dealing with the cases of non-payment of loans by the borrower and the steps that the Page 2 of 2 secured creditor can take in such situations. The Act also provides for machinery for ventilating disputes and grievances. The petitioner, therefore, must approach Debts Recovery Tribunal for raising all the contentions and disputes. This petition which is filed without availing such statutory remedy, is, therefore, not entertained, leaving it open for the petitioner to avail alternative remedy.

After that, the petitioner filed one SAO petition vide No.SAO 21/2022 before the Debt Recovery Tribunal at Guwahati. The respondent-bank by filing written objection stated that the sale was held on 29.01.2021 and bidder Sri Uttam Kumar Das paid the full amount of Rs.64,25,000/- and the bank-respondent issued sale certificate in favour of the said

Sri Uttam Kumar Dey on 02.03.2021 and handed over the delivery and possession of the property to him on 18.03.2021. Vide order dated, the Debt Recovery Tribunal on 15.12.2022 dismissed the said SAO No.21 of 2022

The Petitioner has filed this writ petition praying for the following reliefs:-

" i) Issue Rule calling upon the respondents and each one of them to show cause as to why a writ of certiorari and/or in the nature thereof, shall not be issued, for quashing/setting aside the E-Auction notice of the land measuring 0.0450 acres published through newspaper dated 27.012.2020 for violation of the principles of natural justice.

ii) Issue Rule, calling upon the respondents and each one of them to show cause as to why a writ of certiorari and/or in the nature thereof, shall not be issued, for mandating/for directing the bank respondent to provide the market value of Rs.8,0000000(eight crores) per kani but land measuring 2.5. Ganda(1944 Sq ft) was auctioned sale and issued sale certificate of Rs.64,25,000/- by the bank respondent No.3 illegally and arbitrary.

iii) Issue notice upon the respondents and call for the records appertaining to the writ petition.

AND

To pass any other orders/orders, relief/relieves as Your Lordship may deem fit and proper;"

Today, this matter came up in its motion stage. Heard Mr. A. Acharjee, learned counsel appearing for the petitioner, and perused the evidence on record.

The loan was taken by the petitioner herein and the petitioner defaulted in making the payment. The loan was

classified as NPA and the impugned property was mortgaged to the bank as security for the loan. It is evident from the record that, the notice was duly served to the petitioner herein and the petitioner failed to make the payment in terms of the demand notice. The bank took symbolic possession of the land and possession notice was personally received by the petitioner. The respondent bank give ample opportunity to the petitioner to redeem the security asset but she failed to do so. The sale notice was then published in the newspaper dated 27.12.2020 and the same was served to the address of the petitioner. Then the respondent bank took physical possession of the land. An auction sale was held on 29.01.2021 and the property was handed over to the successful bidder Uttar Kumar Das. On 12.03.2021, the respondent bank intimated the petitioner about the sale held on 29.01.2021. The respondent bank realized the dues from the sale value of the immovable property and the surplus amount was credited to the account of the petitioner.

In view of the above circumstance, this Court is of the opinion that the present writ petition is devoid of any merit since the petitioner failed to show any of the measures taken by the Bank is in contravention to the provision of the

SARFAESI Act, 2021 and the same stands dismissed. Pending application(s), if any, also stands closed.

JUDGE

CHIEF JUSTICE (ACTING)

suhanjit

