

Court No. - 3

Case :- WRIT - C No. - 33472 of 2023

Petitioner :- M/S Balaji Tractors And Another

Respondent :- Indian Bank Zonal Office

Counsel for Petitioner :- Akarsh Dwivedi

Counsel for Respondent :- Habib Ahmad

Hon'ble Siddhartha Varma,J.

Hon'ble Manoj Bajaj,J.

1. Instructions filed by the learned counsel for the Bank be kept on record.
2. From the record it appears that a notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to the "**SARFAESI Act**") was served upon the petitioners. Thereafter the petitioner no. 2 had filed an application/reply under Section 13(3A) of the SARFAESI Act.
3. Grievance of the petitioners is that without having decided the representation/objection filed by the petitioners against the demand notice under Section 13(2) of the SARFAESI Act, the proceedings under Section 13(4) of the SARFAESI Act had been undertaken. To bolster his case, learned counsel for the petitioners relied upon a judgment of this Court dated 18.10.2021 in **Writ-C No. 22503 of 2021 (M/S Hanuman Trading vs. Union of India & 2 Ors.)** wherein it has been held that a vague decision on the representation would be no decision at all.
4. From the instructions which have been handed over to us by the Bank, learned counsel appearing for the Bank has stated that the representation/objection dated 13.09.2023 was decided on

15.09.2023 and only thereafter action had been taken.

5. In the representation which we find at page no. 23 of the writ petition, the petitioners have stated that the recovery be done from the property which was actually being used by the partnership firm and not from the mortgaged property of the petitioners. This aspect of the matter cannot be looked into by this Court. If the petitioners are aggrieved by the action which was now being taken by the Bank, they may approach the Debts Recovery Tribunal under the relevant provisions of the SARFAESI Act. We also find that the decision taken on 15.09.2023 is a pointwise decision which has been taken by the Bank after full application on mind on the representation of the petitioners.

6. With these observations, the writ petition stands **disposed of**.

Order Date :- 31.10.2023

M.S. Ansari

(Manoj Bajaj, J.) (Siddhartha Varma, J.)