

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 4953 of 2023

Petitioner :- Navin Chandra Kishore Srivastava

Respondent :- Debt Recovery Tribunal Lko. And Another

Counsel for Petitioner :- Amol Kumar Srivastava, Shivanshu Mishra

Counsel for Respondent :- Anoop Kumar Misra

Hon'ble Saurabh Lavania, J.

Supplementary affidavit(s) filed in the Court today are taken on record.

Heard learned counsel for the parties.

By means of this petition, the petitioner has sought the following main relief:-

"A. To direct the Learned Debts Recovery Tribunal, Lucknow/opposite party no. 1, to decide the application of the applicant dated 09.09.2023, in pending Securitization Application No. 269 of 2023, titled as "Navin Chandra Kishore srivastava & Anr. Versus Punjab National Bank", whereby, the applicant has assailed the order dated 29.08.2023, passed by the Learned Additional District Magistrate (Administration), Lucknow, while exercising power under section 14 (2) of the SARFAESI Act, 2002, which was registered as case No. 6043 of 2022, having Computerized case No. D202210460006043, titled as "Punjab National Bank Versus M/s Elmech Power And Air Conditioners Pvt. Ltd.", including other reliefs and during such period the application of the applicant is not been decided, the execution and implementation of the order dated 29.08.2023, may not be given effect to, annexed as Annexure No.1, 2 and 3, by a reasoned and speaking order preferably within the time frame fixed by this Hon'ble Court."

Sri P.P. Singh, Advocate, has put in appearance and filed Vakalatnama on behalf of respondent No. 2/Authorized Officer, Punjab National Bank, Lucknow (hereinafter referred to as "Bank"), which is taken on record. He, at the outset, says that on the application, in issue, preferred by the petitioner, the respondent No. 1/Debt Recovery Tribunal at Lucknow (hereinafter referred to as "DRT") has fixed a date i.e. 13.10.2023. He has also stated that the counsel for the Bank shall appear before the DRT on 13.10.2023 for the purposes of

disposal of the said application as also the issue related to maintainability of the application.

Sri Amol Kumar Srivastava, learned counsel appearing for the petitioner says that on the date i.e. 13.10.2023 fixed in the case as also on other dates fixed before the DRT, the learned counsel for the petitioner would not take any adjournment, as such, taking note of the statement made by the learned counsel appearing for the Bank and the reliefs sought as also the undertaking that the counsel for the petitioner would remain present on the dates fixed, a direction be issued to the DRT to decide the application in issue, if possible, on the next date fixed and if it is not possible, then some time may be prescribed for the said purpose.

Learned counsel appearing for the Bank says that he would also address the issue of maintainability of the application before the DRT.

Taking note of the aforesaid also the fact that the property of the petitioner is at stake, as stated in the present petition, the DRT is directed to consider and dispose of the application, in issue, preferred by the petitioner after giving proper opportunity of hearing to the parties concerned if possible on the next date fixed and if it is not possible then the said application shall be disposed within a maximum period of one month thereafter.

It is open for the Bank to raise the objection regarding maintainability of the application, which shall also be considered and decided by the respondent No. 1 within the aforesaid period.

It is made clear that the Court has not examined the case of either party on merits and the Authority/Court concerned shall be free to decide the matter strictly in accordance with law.

With the aforesaid, the petition is ***disposed of***.

Order Date :- 10.10.2023

Arun/-