

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J.UMA DEVI

WRIT PETITION No.31726 of 2017

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner in this case is that the Asset Re-construction Company (India) Limited (ARCIL), the assignee of his debt from the State Bank of India, has no right to initiate any proceedings against him under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') and that its proposed action after more than ten years of the account becoming a non-performing asset is illegal.

Sri Abu Akram, learned counsel for the petitioner, would contend that as per the demand notice issued by the ARCIL on 14.12.2015, the total amount due stands at Rs.24,15,680.70 ps. but, as per the contractual rate of interest, it should be much lesser. He would further submit that had the State Bank of India not assigned his debt to the ARCIL, the petitioner would have been benefited by a recent scheme brought out by the State Bank of India for settlement of its outstanding dues.

We are of the opinion that these contentious factual issues cannot be resolved by this Court in exercise of writ jurisdiction. In the event the petitioner seeks resolution of such disputed questions of fact, he would be well advised to avail the statutory remedy provided under the SARFAESI Act.

Leaving it open to the petitioner to do so in accordance with law, the writ petition is dismissed. It is made clear that all issues are left open

and that dismissal of this writ petition would not preclude the ARCIL from entering into an out of Court settlement with the petitioner.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR,J

J.UMA DEVI,J

Date:27.11.2017
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