HIGH COURT OF TRIPURA
AGARTALA

WP(C)No.184 of 2020

For Petitioner(s)	:	Mr. A.L. Saha, Adv.
For Respondent(s)	:	Mr. Soumen Saha, Adv.

HON'BLE MR. JUSTICE S. TALAPATRA
HON'BLE MR. JUSTICE S.G. CHATTOPADHYAY

Order

09/12/2020

Heard Mr. A.L. Saha, learned counsel appearing for the petitioners as well as Mr. Soumen Saha, learned counsel appearing for the bank-respondents.

2. The basic facts are not in dispute. The petitioners obtained over draft limit and transactions in the said over draft account was not satisfactory. Certain allegations have been made in the writ petition against the bank that despite requests being made by the petitioners, the Bank Manager did not reduce the limit by adjusting a fixed deposit certificate to the extent of Rs.23,000/- and finally, the said account had been termed as Non Performing Account (NPA). As a result, the bank commenced proceeding under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, SARFAESI Act in short. The said proceeding was challenged by the petitioners in the Debts Recovery Tribunal, Gauhati Bench in SA No.102 of 2019 and SA 29 of 2020. The proceeding is still inconclusive according to the counsel for the parties.

3. The petitioners in the interregnum filed this writ petition urging the reliefs viz. setting aside of the vacation notice dated 25.02.2020 and the order dated 17.02.2020 issued by the Sub-Divisional Magistrate, Teliamura, Khowai whereby an Executive Magistrate has been authorized to

take up the physical possession of the properties of the petitioners [secured assets]. It has been further urged that the bank-respondents may be directed to cause one time settlement in terms of the representation dated 24.20.2020 [Annexure-36 to this petition]. The premises as assigned do not permit this court to interfere with the SARFAESI proceeding. Moreover, the petitioners have been maintaining a parallel proceeding in the Debt Recovery Tribunal. Judicial fairness does not permit this court to entertain a separate application parallel to the said proceeding. Even though, the reliefs as are very limited. But, this is not a case where jurisdiction of Judicial review can be extended.

4. Having observed thus, this writ petition stands dismissed. However, the bank-respondents will be at liberty to settle the recovery beyond the judicial proceeding at their discretion.

It is made absolutely clear that this court is not making any comment as to legality or executability of the said SARFAESI order.

There shall be no order as to costs.

JUDGE **JUDGE**

HIGH COURT OF TRIPURA
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