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12.03.2020
PP.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA 634 of 2020

DNB Food Processing Pvt. Ltd. & Ors.

-versus-

United Bank of India & Ors.

Mr. Kunaljit Bhattacharjee,
Mr. Abhisek Palit

....for the petitioners.

Mr. Nikhil Chakraborty

....for the respondents.

Affidavit of service filed in Court today be kept on record.

The petitioners challenge a sale notice issued by the respondent no.3 on behalf of the respondent no.1 under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the said Act). The petitioners say that at the point of time when the writ petition was filed, the Tribunal at Siliguri was not operational. The petitioners say that due to several illegalities perpetrated by the bank the petitioner is entitled to have the sale notice quashed. The fact is that as of now the Tribunal at Siliguri is functional.

The Supreme Court of India and various High Courts following the ratio laid down by the Supreme Court has sparingly entertained an application under Article 226 of the Constitution of India challenging the sale notice issued under the said Act in view of the alternative remedy available to an aggrieved person. Section 17 of the said Act is a complete answer to the

petitioners' case being not entertained on the ground of alternative remedy. It is correct that writ Court is not denuded of its jurisdiction to entertain a writ petition in a case of patent illegality or acts without jurisdiction, but when there is a specific provision under the said Act for the petitioners to ventilate their grievances, I feel that the petitioners should be relegated to avail such remedy.

The time period spent from the filing of the writ petition till the passing of the instant order shall be exempted while calculating the period of limitation for preferring an appeal under Section 17 by the petitioners.

I have not gone into the merits of the case. No observation made herein shall influence the Tribunal in any manner whatsoever. The Tribunal shall pass a reasoned order after considering the respective cases of the parties.

The writ petition is disposed of accordingly without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)