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WPO 368 of 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE
[Via Video Conference]

DR. ANUPA PAL NEE GHOSH

Versus

STATE BANK OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 3rd November, 2020.
[Vacation Bench]

Apperance:

*Mr.Javed Majid, Adv.
Ms.Sagufa Naaz, Adv.
..for the petitioner.*

*Mr.Indrajit Bhattacharjee, Adv.
Mr.Hariram Singh, Adv.
..for the respondents.*

The Court : The present challenge is directed against a notice sent by the respondent bank to the petitioner for auction of a property on the ground of non-payment of a loan taken by the husband of the petitioner (since deceased). Learned counsel for the petitioner argues that the bank violated the order passed by the highest authority under the Right to Information (R.T.I.) Act by delaying the supply of documents asked for by the petitioner. However, in all fairness, learned counsel for the petitioner hands up a copy of such information, which was handed over later on by the bank, *albeit* beyond the period as directed by the R.T.I. authorities.

It is the further grievance of the petitioner that several notices under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) have been served on the petitioner, which were *de hors* the law. Learned counsel relies on several letters, copies of which have been annexed to the instant writ petition, to substantiate his case in that regard.

However, upon hearing both the sides, it is evident that there is a specific alternative statutory forum for challenging against a notice under Section 13(2) of the SARFAESI Act, 2002 and/or any procedure undertaken within the periphery of Section 13(4) of the 2002 Act. Hence, there is no scope of interference, more so on factual premises, by the writ court.

As regards the other grievance of the petitioner, as to the respondent bank have allegedly withdrawn money from the account of the minor children of the petitioner in order to meet the said loan dues, the said grievance has already been ventilated before the appropriate Consumer Forum and as such, does not call for any interference by this Court at this stage.

In such view of the matter, since there is no *prima facie* patent miscarriage or abuse of process of law brought to the notice of this Court justifying the interference under Article 226 of the Constitution of India, WPO 368 of 2020 is dismissed.

However, liberty is granted to the petitioner to approach before the appropriate Tribunal to ventilate grievances raised before this Court in the current writ petition within a reasonable time.

It is further made clear that the merit of the petitioner's case and the question of the maintainability, in law, of the proceedings under Section 13, sub-sections (2) and (4) of the 2002 Act, have not been gone into by this Court and are kept open for being argued and countered before the appropriate forum.

There will be no order as to costs.

Urgent website photocopies of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

D.Ghosh/S.Bag