

02.03.2021
Ct. 19
D/L 15
ab

C.O. 415 of 2021
(Via Video Conference)

Achhma Khatun Haldar & Anr.

-Vs-

Bank of Baroda & Anr.

Mr. Ranjan Kumar Kali,

... for the petitioners

This revisional application is directed against an order dated 6th January, 2021 passed by the learned Presiding Officer, DRT-III, Kolkata in connection with the applications being IA 1314 of 2020 and IA 1315 of 2020 arising out of SARFAESI application being No. 481 of 2018.

It is the contention of the petitioners that the learned Tribunal failed to take into account the prima facie case and the urgency involved while refusing to pass an order of stay and hence, this Court in exercise of power under Article 227 of the Constitution of India has the jurisdiction to consider the legality of the order impugned despite there being a statutory provision for appeal.

In my opinion, the learned Tribunal has recorded that the issue raised by the petitioners as to the property being vested in the State of West Bengal and that the bank being aware of such vesting entered into a void contract with the petitioner and thus, could not take steps under the SARFAESI Act, are disputed questions of fact which could not be decided without the affidavit-in-opposition by the opposite party/bank. I

do not find any illegality in the order impugned at this stage.

However, the learned Tribunal shall decide the issue with regard to an interim protection mandatorily within a month from the next date fixed purely on the merits of the claim of the petitioner and the contentions of the Bank, the record available and pass an order in accordance with law.

The petitioner is directed to serve a copy of this application along with a server copy of this order upon the learned Advocate appearing on behalf of the Bank of Boroda before the learned Tribunal.

The revisional application is, thus, disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(**Shampa Sarkar, J.**)