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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 6662 of 2021

Kuntal Kumar Mahapatra
Vs.
The State of West Bengal & Ors.

Mr. Soumen Datta,
Mr. Tapas Singha Roy,
Ms. Dolon Dasgupta
.... For the petitioner.

Mr. Pradip Kumar Roy,
Mr. Ankit Sureka,
Mr. Partha Sarathi Pal
... For the State.

Mr. Billwadal bhattacharyya,
Mr. Anish Kumar Mukherjee
... For the Co-operative Bank

Affidavit of service filed in Court today is taken on record.

The petitioner has, *inter alia*, sought for a declaration that the accounts maintained by the bank with regard to the petitioner's loan are full of errors and no proceeding can be drawn under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act) as also for cancellation and/or quashing of the notice dated 1st January, 2019 issued under the provisions of section 13(2) of the SARFAESI Act, 2002 and the possession notice dated 9th September, 2020.

The petitioner had on a previous occasion filed a writ petition, being WPA 9273 of 2020 which was disposed of by an order dated 16th December, 2020 by directing the petitioner to avail the alternative efficacious remedy available to the petitioner. In the said order the petitioner was, however, given a liberty to approach the bank with his grievances as to accounts which the bank was asked to consider in accordance with law. The petitioner approached the bank pursuant to which a letter dated 8th January, 2021 was issued by the respondent Co-operative bank. It appears from serial no.6 of the said letter at page 37 of the writ petition that certain clerical mistakes were detected and as such a revised statement was made over to the petitioner. The petitioner by referring to the revised statement says that the balance as on 31st March, 2019 on being carried forward to the next date has increased manifold which is unnatural. There may be some substance in the petitioner's contention but this Court while exercising jurisdiction under Article 226 of the Constitution of India cannot go into this aspect firstly, in view of the alternative efficacious remedy available to the petitioner under SARFAESI Act and secondly it will require appreciation of facts beyond the purview of writ jurisdiction. It is also well settled in view of the judgment reported in 2020 (9) SCC 215 (Pandurang Ganpati Chaugule vs.

Vishwasrao Patil Murgud Sahakari Bank Ltd.) that a Co-operative bank can take recourse of the provisions of SARFAESI Act.

In the facts and circumstances as aforesaid, the writ petition is disposed of by allowing the petitioner to ventilate its grievances on the selfsame issue in accordance with law as may be advised.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)