

WPA 10498 of 2021

Sushmita Bhowmick & Anr.

-vs-

The State Bank of India & Ors.

Mr. Suman Sengupta
Mr. Sounak Bhattacharya
Mr. Sumitava Chakraborty
... for the petitioner

Mr. Indrajit Bhattacharjee
... for the Bank
Mr. Ujjawl Kumar Sarkar
... for the LIC

The petitioner seeks an order directing the State Bank of India to cancel the e-auction in respect of an immovable property belonging to the petitioner.

Learned advocate for the petitioner submits that the petitioner obtained a loan from the LIC Housing Finance Ltd. The petitioner mortgaged the immovable property in favour of LIC. The petitioner did not enter into any transaction with the State Bank of India. Surprisingly, the State Bank of India is proceeding with the e-auction. He submits that there is no right, title and interest existing in favour of the State Bank of India for it to invoke the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

Learned advocate appearing for the State Bank of India submits that his client is in possession of the original title deeds in respect of the immovable property. The property was mortgaged for loan taken by one Mr. Moloy Kr. Das. Such

person having defaulted in payment of the loan, the State Bank of India is proceeding against the property concerned under the Act of 2002.

The LIC is represented.

Learned advocate appearing for the LIC submits that the petitioner is regularly paying the installments for the loan. The property stands mortgaged in favour of LIC.

Apparently, the State Bank of India claims rights as a secured creditor in respect of the immovable property belonging to the petitioner.

The State Bank of India, as the secured creditor, is proceeding under the Act of 2002 in respect of such immovable property. The Act of 2002 provides statutory alternative remedy to the petitioner in such scenario. The petitioner is yet to avail such statutory alternative remedy.

In such circumstances, in view of the existence of statutory alternative remedy in favour of the petitioner, I am not minded to interfere under Article 226 of the Constitution of India.

Writ petition being WPA 10498 of 2021 is, accordingly, disposed of.

(Debangsu Basak, J.)

