

16-08-2021
ct no. 13
Sl.94
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WPA 11394 of 2021
M/s. Maa Durga Aqua Probiotic Centre & Anr.
-Versus-
Bank of Baroda & Ors.
(Via Video Conference)

Mr. Rajib Maity
...for the petitioners

Mr. Dipanjan Datta
....for the Bank

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

The writ petitioner is aggrieved by the fact that the Bank of Baroda has neither accepted his OTS proposal nor has returned the upfront money in support thereof.

It appears that the loan account was availed in the year 2017 against the security of immovable assets. The possession of the immovable property has been taken by the Bank under the provisions of the SARFAESI Act, 2002. The property has also been put up for the sale.

It is submitted that the writ petitioner has challenged the sale process before the Debt Recovery Tribunal under Section 17 of the said Act. The Bank has also instituted proceedings under the RDB Act, 1993.

There are other writ petitions filed by the petitioner, pending before this Court.

Counsel for the Bank submits that immediately prior to submission of the OTS proposal, the writ petitioner Mr. Srimanta Jana has attempted to transfer the said secured assets in favour of third parties.

This Court is of the view that the subject matter of the writ petition is best agitated before of the Debts Recovery Tribunal. There are disputed questions of fact, inter alia, as to whether the amounts put in by the petitioner, was in the aid of any OTS proposal or a part payment of loans. As to whether the Bank is obliged to return any sums of money put in by the petitioner in the aid of any OTS may also be dealt with by the Debts Recovery Tribunal in the pending proceedings thereat.

In that view of the matter, the writ petition is not entertained and is hereby dismissed.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)