

01.10.2021
Item No.4
Crt.No.11
K.B.

F.M.A. 961 of 2021
with
I.A. NO. CAN 1 of 2021

Susanta Das
-versus-
State Bank of India and others.

(Via Video Conference)

Mr. Subhankar Nag
Mr. S. Chakraborty
... For the appellant.

Ms. Deblina Lahiri
Mr. Mrinmoy Chatterjee
... For the Respondents.

Under challenge in this appeal is the order impugned of the Hon'ble Single Bench dated 12th August, 2021 in the writ petition. By the order impugned, the Hon'ble Single Bench refused to admit the writ petition on the ground that a specific remedy is available to the writ petitioner/the present appellant before the Debts Recovery Tribunal (*DRT*) under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the *SARFAESI Act*, 2002).

The Hon'ble Single Bench came to the above finding on the ground that proceedings under Section 13 of the *SARFAESI Act* had been already put into motion *qua* the writ petitioner/the present appellant as a defaulting borrower.

Mr. Nag submits that the appellant is entitled to a settlement of the loan amount on the strength of circulars issued by Reserve Bank of India (*RBI*). With the initiation of proceedings under Section 13 of the SARFAESI Act, 2002, such settlement exercise stood foreclosed.

Learned Counsel for the appellant relies upon several legal authorities to demonstrate that the Writ Court can interfere by way of exercise of an alternate remedy in circumstances where there is a clear absence of jurisdiction.

On behalf of the Respondents/the State Bank of India, represented by Ms. Deblina Lahiri, Learned Counsel with Mr. Mrinmoy Chatterjee, Learned Advocate, it is submitted that the order impugned of the Hon'ble Single Bench cannot be faulted on the ground that in the teeth of specific remedies under the special statute, the exercise of extraordinary Writ Jurisdiction is not an option open to the appellant/the writ petitioner.

It is pointed out that in the facts of this case the appellant/the writ petitioner is required to follow the remedies as laid down in the SARFAESI Act, 2002.

It is reiterated that the appellant was granted several opportunities to settle the loan account and the appellant had also furnished his statutory reply to the notice under Section 13(2) of the SARFAESI Act.

Having heard the parties and considering the materials placed, this Court finds no reason to interfere with the order of the Hon'ble Single Bench.

It is open to the appellant to pursue his remedies under the special statute on merits.

F.M.A. 961 of 2021 with **I.A. No. CAN 1 of 2021** stand accordingly **disposed of**.

Since affidavits are not called for, allegations made are deemed to be denied and disputed.

All parties shall act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kesang Doma Bhutia, J.) -

(Subrata Talukdar, J.)