06.12.2021.
Court No.13
Item No. 32
ap

W.P.A. No. 14520 of 2021
(Through Video Conference)

Saket Promoters Limited & Anr.
Versus
Dewan Housing Finance Corporation Limited & Ors.

Mr. Prabhat Sil,
Mr. Farhan Gaffar,
Mr. Y.A. Salim.
...For the petitioners.
Ms. Suchismita Chatterjee,
Mr. M. Seal.
...For the respondent no.5.
Mr. Siddhartha Banerjee,
Mr. Avishek Guha,
Ms. Akansha Chopra.
..For the respondent no.2.

Affidavit-of-service filed in Court today be taken on record.

The writ petitioners are aggrieved by the notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short SARFEASI Act, 2002) issued by the respondent nos.2, 3 and 4.

It is submitted that the loan obtained from the said respondents could not have become 'non-performing assets' in view of the Circulars of the Reserve Bank of India and based on the directions of the Hon'ble Supreme Court of India. It is further submitted that the said Circulars were issued to Banks and Financial Institutions which include the respondent nos.2 to 4 to the effect that during the Pandemic, the account shall not be declared as "Non-Performing Assets".

It is submitted by the Counsel for the NBFC that a notice under Section 13(4) of the SARFEASI Act, 2002 has already been issued and prior thereto, reply under Section 13(3A) of the SARFEASI Act, 2002 has been sent.

This Court is of the view that, as to whether the account has been wrongly classified as “Non-Performing Assets” or whether there is any violation of the Guidelines of the Reserve Bank of India, is also within the purview of the scrutiny of the Debts Recovery Tribunal under the provisions of the SARFEASI Act, 2002.

This Court is, therefore, of the view that the remedy of the petitioners is under the SARFEASI Act, 2002 before the Debts Recovery Tribunal, inter alia, under Section 17 thereof.

In so far as the grievance of the petitioners against the Reserve Bank of India is concerned, it appears that a complaint was received, entertained and closed by the Reserve Bank of India and the same has duly been communicated to the petitioners.

Since the respondents have not used any affidavit, the allegations contained in this writ petition shall not be deemed to have been admitted by them.

The writ petition therefore fails and is hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)