

ORDER SHEET
WPO NO. 367 OF 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

GOURIPUTRA CONSULTANT PVT. LTD. & ANR.
Versus
AXIS BANK LTD. & ANR.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 9th March , 2021

Appearance :

Mr. Paritosh Sinha,
Ms. Soni Ojha,
Ms. S.B. Chatterjee, Advs.,
for the petitioner.

Mr. M.S. Tiwari, Adv.,
for the respondent.

The Court : When the matter is called on for hearing, learned Counsel for the respondents seeks a day's adjournment. However, learned Counsel for the petitioners submits that, under compulsion, the petitioner is being constrained to withdraw the writ petition, since a proceeding under Section 13(4) of the SARFAESI Act, 2002 was taken out and the petitioner filed an application under Section 17 of the said Act before the Debts Recovery Tribunal, in which the Debts Recovery Tribunal passed an order dismissing the petitioners' application on the ground of pendency of the present writ petition.

Learned Counsel for the petitioners further prays for liberty to apply for restoration before the Debts Recovery Tribunal upon withdrawal of the writ petition.

In view of the nature of the submissions made, there does not remain any necessity to adjourn the matter unnecessarily.

Accordingly, WPO 367 of 2020 is dismissed as withdrawn, with liberty to the petitioners to file an application for restoration of the petitioners' application under

Section 17 of the 2002 Act before the Debts Recovery Tribunal. It is further made clear that the merits of the contentions of the parties have not been gone into by this Court and it will be open to both sides to raise all contentions taken in the writ petition before any other appropriate forum, including the Debts Recovery Tribunal.

It is further clarified that the restoration application, if filed, shall be decided by the Debts Recovery Tribunal in accordance with law on its own merits without being influenced by any of the observations made in this order.

No order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)