

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IA No.GA/1/2020
GA/2/2021
APO/149/2020
WPO/376/2020

A. K. PROPERTIES PVT. LTD. & ANR.
VERSUS
STATE BANK OF INDIA & ORS.

BEFORE
THE HON'BLE THE CHIEF JUSTICE PRAKASH SHRIVASTAVA
AND
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

Date: 23rd November, 2021

[Via Video Conference]

Appearance
Mr. Joy Saha, Sr. Adv.
Mr. Debasish Karmakar, Adv.
Mr. Subhojit Saha, Adv.
Mr. Ishaan Saha, Adv.
..for Appellants
Mr. Abhraneel Routh, Adv.
Ms. Smruti Mishra, Adv.
..for Respondents

The Court: This appeal is directed against the order of the learned Single Judge dated 27th November, 2020 whereby the writ petition filed by the petitioner has been dismissed.

The appellant (writ petitioner) had borrowed an amount from the respondent-bank by mortgaging certain lands and on committing the default, the bank has initiated the proceeding. Since, the appellant was interested in one time settlement (OTS), therefore, it had applied for the same in terms of the scheme floated by SBI. Since there was a dispute in respect of the OTS amount, therefore, the writ petition was filed. Learned Single Judge has dismissed the petition rejecting the petitioner's contention that the land is an agricultural land.

The dispute essentially between the parties is in respect of the nature of land. Counsel for both the parties have jointly submitted that the

remedy in respect of the dispute raised by the appellant lies before the DRT. Therefore, the appellant should file an appropriate application before the DRT raising the said grievance.

Learned counsel for the appellant has also fairly stated that he is willing to go to the DRT but the observations made by the learned Single Judge will come in his way before the DRT.

Undisputedly, DRT is required to adjudicate the issue involved in the matter in respect of the nature of land on which the OTS will depend. Hence, we dispose of the present appeal granting liberty to the appellant to approach the DRT.

We make it clear that any observation made by the learned Single Judge as also any order passed by this Court during the pendency of the appeal will not come in the way either of the parties in the adjudication by the DRT and the amount which has been deposited by the appellant will continue to be in deposit subject to further orders and adjudication by the DRT. If an application is filed before the DRT, the same will be considered and decided by the DRT as expeditiously as possible preferably within a period of three months from the date of the application.

(PRAKASH SHRIVASTAVA, C.J.)

(RAJARSHI BHARADWAJ, J.)