June 9, 2022
Serial No.12
Court No.1
SG

FMA 1088 of 2021
with
CAN 1 of 2020(Old No.886 of 2020)

Sri Samir Kumar Mondal
vs.
Oriental Bank of Commerce and another

Mr. P.K. Pakrashi,
Mr. P. Das,
Ms. M. Patra, Advocates
... for the appellant

Mr. Pankaj Kumar Mukherjee, Advocate
... for the respondent bank

This appeal at the instance of the writ petitioner is directed against the order of learned Single Judge dated 15.11.2019 whereby WP No.916 (W) of 2016 has been disposed of noting that the appellant has remedy under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

Submission of learned counsel for appellant is that the appellant was the highest bidder in the auction of the land which was conducted by respondent bank but thereafter possession of the land has not been given to the appellant, therefore he had approached the writ Court with the prayer to direct respondent bank to hand over possession or to return the money.

Submission of learned counsel for respondents is that appellant has the remedy under Section 17 of the said Act.

Having heard learned counsel for the parties and on perusal of the record, it is noticed that under Section 17 of the said Act any person aggrieved by any of the measures referred to in Sub-Section 13(4) taken by the secured creditor has the remedy to approach the competent tribunal.

Considering the nature of the dispute, learned Single Judge has not committed any error in taking the view that the appellant has the remedy under Section 17 of the said Act. Since an alternative efficacious statutory remedy is available to the appellant, no case was made out for entertaining the writ petition directly.

Hence, we do not find any error in the order of learned Single Judge. No case for interference is made out.

Accordingly, the appeal is dismissed,

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]