

09.03.2022

Ct. No. 13

Sl.5

pk

W.P.A No. 1985 of 2022
(Through Video Conference)

M/s. Halder Construction Proprietorship Company
and another
Vs.
State Bank of India and others

Mr. Kishore Datta,
Mr. D. Ghosh,
Ms. S. Ganguly,
Mr. D. Kundu

.... for the petitioners.

Mr. Om Narayan Rai,
Mr. Saikat Roy Chowdhury

... for the respondents.

The writ petitioner is aggrieved by an order dated 17th January, 2022 passed by the Debts Recovery Tribunal-3 at Kolkata in SA No. 684 of 2019 (M/s. Halder Construction and another Vs. State Bank of India and another)

Mr. Datta, learned senior advocate appearing for the petitioner, has laboured for a considerable period of time to explain that the petitioner was always ready and willing to repay the OTS amount. The alleged delay for which the bank has cancelled the OTS, is not attributable to his client. It is submitted that both the OTS application and accepted terms were sent to the wrong address. The Tribunal appears to have considered the aforesaid argument of the petitioner.

The next argument of Mr. Datta is that while considering the interim application, the Tribunal could not have disposed of the main application itself being SA 684 of 2019. This Court is of the view that the same falls within the discretion of the Tribunal and is not improper.

The remedy of the petitioners against the impugned order lies before the Debts Recovery Appellate Tribunal, since there is no violation of principles of natural justice nor has any of the exceptions to alternative remedy been demonstrated by the writ petitioner before this Court under Article 226 of the Constitution of India.

The writ petition is dismissed.

It is made clear that dismissal of the writ petition shall not prevent the parties from exploring other avenues of settlement. In the event the petitioner files an appeal under Section 18 of the SARFAESI Act, 2002, the same may be considered excluding the time spent in pursuing the instant writ petition for the purpose of limitation. All other preconditions as per statute must be complied.

If the appeal that may be filed by the petitioners is otherwise ready for consideration, the same is to be taken up by the Debts Recovery Tribunal expeditiously.

Therefore, the aforesaid order shall not be interpreted as entitling the petitioner to prefer any appeal de hors the provisions of Section 18 of the SARFAESI Act.

(Rajasekhar Mantha, J.)