

11 14.03.2022

gd/ssd

MAT/234/2022
IA NO: CAN/1/2022
SANJIB DUTTA AND ORS.
VS
VIJAYA BANK AND ORS.

Ms. Kakali Samajpaty,
Ms. Sudipa Samanta,
Mr. Pramit Chakraborty
..for the Appellants

Mr. Ansar Mandal,
Ms. Sipra Mazumdar,
Mr. Supravat Bhattacharjee
..for the State

Mr. Dipanjan Dutta,
Mr. Atanu Basu
..for Bank of Baroda

By this appeal the writ petitioners had challenged the order of the learned Single Judge dated 18th February, 2022 whereby WPA 13962 of 2021 has been disposed of on the ground of alternate remedy of appeal.

Submission of learned counsel for the appellants is that since the order under Section 14 of the Securitisation Act has been passed in violation of the statutory provision, therefore, this court should have entertained the petition. She has further submitted that the Covid guidelines, issued from time to time by the Union Home Secretary, have been violated and has also placed reliance upon the judgment of the Supreme Court in the matter *Harshad Govardhan Sondagar v. International Assets Reconstruction Company Limited and Others* reported in (2014) 6 SCC 1 in support of her

submission relating to the propriety and legality of the order under Section 14 of the Act.

Submission by learned counsel for the respondent Bank is that the learned Single Judge had not committed any illegality in passing the impugned order and that the DRT is functional where the second appeal preferred by the appellants is still pending and all these issues can be gone into in the pending appeal.

Having heard the learned counsel for the parties and on the perusal of the record, it is noticed that the appellants had approached the writ court by filing the petition and questioning the order of the District Magistrate dated 01.12.2020 passed under Section 14 of the Securitisation Act. The learned Single Judge considering the rival submissions of the learned counsel for the parties has reached to the conclusion that the appellants have already approached the DRT under Section 17 of the Act by filing the appeal and that the said SA is pending. Therefore, having regard to the availability of an alternative efficacious remedy, the writ petition has been disposed of with a direction to the DRT to take up any interlocutory application, if filed in the pending appeal, as expeditiously as possible.

The view taken by the learned Single Judge does not suffer from any error. Supreme Court has already held that the writ petition against the order under

Section 14 of the Securitisation Act is not the proper remedy and that any person aggrieved with the said order, should approach the DRT under Section 17. In the matter *Harshad Govardhan Sondagar v. International Assets Reconstruction Company Limited and Others* reported in (2014) 6 SCC it has been held that such a writ petition should not be entertained. In the matter of *Authorized Officer, State Bank of Travancore and Another v. Mathew K.C.* reported in (2018) 3 SCC 85 it has been held that:-

“The SARFAESI Act is a complete code by itself, providing for expeditious recovery of dues arising out of loans granted by financial institutions, the remedy of appeal by the aggrieved under Section 17 before the Debts Recovery Tribunal, followed by a right to appeal before the Appellate Tribunal under Section 18. The High Court ought not to have entertained the writ petition in view of the adequate alternate statutory remedies available to the respondent. The interim order was passed on the very first date, without an opportunity to the appellant to file a reply. Reliance was placed on *United Bank of India v. Satyawati Tondon and Sri Siddeshwara Coop. Bank Ltd. v. Iqbal*. The writ petition ought to have been dismissed at the threshold on the ground of maintainability. The Division Bench erred in declining to interfere with the same.”

The arguments which have been advanced by the learned counsel for the appellants before this court can very well be advanced before the DRT in the pending appeal. Hence, we are of the opinion that no case for interference in the order of the learned Single Judge is made out.

If the appellants file any application for

interlocutory order in the pending appeal before DRT, then as per the direction already issued by the learned Single Judge, the said application will be taken up without any unnecessary delay.

The appeal is, accordingly, disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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