

**MAT 419 of 2022  
With  
CAN 1 of 2022**

**Shankar Saw Mills Private Limited & Anr.  
Vs.  
State Bank of India & Anr.**

Mr. Dulal Dey

... ... for the appellants

Mr. Pijush Kanti Ray

Mr. Sourajit Mukherjee

... ... for the respondents

This appeal has been filed by the writ petitioners questioning the order of the learned Single Judge dated 11.03.2022 whereby WP No.21512 (W) of 2021 has been disposed of taking note of the fact that the petition has become infructuous.

Submission of learned counsel for the appellants is that learned Single Judge ought to have called for the affidavits and ought to have examined the letters produced by the respondent bank disclosing that the e-Auction was cancelled.

Having examined the record, it is noticed that the appellants are borrowers from the respondent bank and on committing the default in payment of the loan amount, proceedings under the SARFAESI Act were initiated and in terms of Section 13(4) of the Act, possession of the secured assets was taken and on 14.12.2021 two of the properties were put to auction by issuing sale notice-cum-e-Auction notice.

Aggrieved with the same, the appellants had approached the Writ Court with the prayer to cancel the sale notice-cum-e-Auction notice dated 14.12.2021. At the stage of hearing before the learned Single Judge the counsel for the bank had informed that the e-Auction notice dated 14.12.2021 was already cancelled.

In view of this, learned Single Judge had rightly found that nothing survived in the writ petition and the petition had become infructuous.

In view of the above development, no exchange of affidavit was required and no issue of questioning the document informing about the cancellation of the e-Auction notice was necessary.

Hence, we do not find any error in the order of the learned Single Judge.

The appeal is accordingly dismissed.

The connected application is also dismissed.

**(Prakash Shrivastava, C.J.)**

**(Rajarshi Bharadwaj, J.)**