4 16.06.2022

PA(SS)

MAT 718 of 2022
With
CAN 1 of 2022
M/s. Alam Tannery Private Limited and Another
Vs.
State Bank of India and Others

Mr. Arindam Banerjee,
Mr. Ashis Kr. Mukherjee,
Mr. Saurabh Prasad, Advocates
... for the appellants
Ms. Vidushi Chokhani, Advocate
... for the respondent Nos. 3 & 4

By this appeal writ petitioners have challenged the order of the learned Single Judge dated 22.04.2022 whereby W.P.A. No. 5699 of 2022 has been disposed of with certain observation.

The appellants had approached the writ Court with the plea that the appellants were the borrower and certain financial/credit facilities were extended to them by the respondent bank. The appellants further took the plea that default took place due to COVID-19 Pandemic and that respondent No.5 had issued the guidelines/instructions/directions styled as regulatory package/resolution framework and respondent No.3 had framed resolution framework 2.0 in terms of the RBI circular. The appellants had applied seeking grant of resolution framework for repayment. Some interaction took place between the petitioners and the respondents and thereafter the account of the appellants was classified as non-performing asset w.e.f. 31st of October, 2021 and the notice under Section 13(2) of the SARFAESI Act, 2002 was served upon the appellants. Being aggrieved with the action of respondent bank, the appellants had filed the writ petition.

Learned Single Judge has reached to the conclusion that the proceedings under Section 13(2) of the SARFAESI Act, 2002 are not justiciable and the grievance in this regard can be agitated by the appellants when the said proceedings mature into a 13(4) notice under the Act. In these circumstances, the learned Single Judge did not find any ground to grant any relief to the appellants.

Submission of the learned Counsel for the appellant is that on the one hand the respondent Axis bank was considering the request for restructuring beyond 2 years and on the other hand the impugned action was initiated. As against this learned Counsel for the respondent bank has pointed out that the proposal submitted by the appellants to the bank for maximum repayment period of 5 years was not acceptable.

We have heard the learned Counsel for the parties and perused the record.

During the course of argument learned Counsel for the appellants has not disputed the conclusion of learned Single Judge that action under Section 15(2) of the SARFAESI Act, 2002 is not justiciable.

So far as the issue of restructuring and extension of maximum repayment period to 5 years is concerned, no legal right in this regard has been pointed out by the learned Counsel for the appellants. On the contrary, the correspondence referred to by Counsel for both the parties indicates that no final agreement could be arrived at between the bank and the borrower in respect of the term of restructuring as the borrower had not agreed to the maximum repayment period of 2 years. In this view of the matter, we are of the opinion that the learned Single Judge has not committed any error in dismissing the petition, hence no ground for interference is made out. The appeal is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)