

Ct. 05
Item No.17
02.08.2022
(suvendu)

WPA 12746 of 2022

**Hari Pada Saha & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Sujit Saha
.....for the petitioners
Ms. Soni Ojha
Ms. Sambrita B. Chatterjee
.....for the respondent no. 5
Mr. Anupam Dasadhikari
.....for the State

Although the petitioners complain only of an order dated 28.04.2022 passed under Section 14 of the SARFAESI Act, 2002, the immediate grievance, as verbally submitted by learned counsel appearing for the petitioners, is a Pre-intimation Sale Notice dated 08.06.2022.

The *bona fides* of the petitioners would appear from an application filed before the DRT – III on 21.06.2022 against the said Notice dated 08.06.2022.

Learned counsel appearing for the petitioners however submits that the DRT –III is not functioning since June, 2022 and continues to be in the same condition.

Learned counsel appearing for the financial institution points to lack of *bona fides* of

the petitioners in not challenging the Notice under Section 14 of the Act before the DRT. Counsel submits that the petitioners have only filed an application challenging the action taken under Sections 13(2) and 13(4) of the Act.

The State is represented.

Considering the undisputed fact that the DRT –III is not functioning since June, 2022 and continues to be in that state of affairs as on date, there shall be a limited stay of the Notice dated 08.06.2022 till one week after the new Member assumes the office of the DRT –III or the petitioner's pending application is assigned to any other Bench of the DRT. The financial institution is also at liberty to take steps for expediting the matter in the DRT.

WPA 12746 of 2022 is disposed of in terms of the above.

This order is subject to the payment of deficit Court Fees by the petitioners by tomorrow, i.e. 03.08.2022.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)

