

Ct. 05
Item No.20
23.12.2022
(Suvendu)

WPA 13353 of 2022

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

Mr. Subrata Sikdar
Mr. Dulal Dey

.....for the petitioner

Mr. Joy Saha
Mr. Pijush Kanti Ray

.....for the respondent -Bank

The petitioner prays for stay of an e-auction Sale Notice of 3rd December, 2022 primarily on the ground that the respondent – Bank proceeded to issue the e-auction Sale Notice despite existence of an interim order as on that date. The interim order, passed by this Court, was of 22nd November, 2022. The orders passed in the matter show subsistence of the interim order till 6th December, 2022.

Learned counsel appearing for the respondent –Bank submits that the petitioner has also approached the Debts Recovery Tribunal for stay of the said e-auction Sale Notice and that the matter was listed before the DRT yesterday.

Although the Court is prima facie of the view that the respondent –Bank could not have proceeded to issue the fresh e-auction Sale Notice on 3rd December, 2022 when the interim order was in force, this Court is not inclined to pass any interim order at this stage since the petitioner is already before the DRT under the SARFAESI Act, 2002.

It should also be noted that the respondent -Bank has challenged the order passed by this Court on 22nd November, 2022 and the appeal is yet to be listed before the Division Bench.

Affidavits are complete in the matter.

List this matter on 20th January, 2023 along with the Contempt Application filed by the petitioner being CPAN 1424 of 2022.

Any action taken by the respondent – Bank in the meantime shall be subject to the result of the writ petition.

(Moushumi Bhattacharya, J.)