

Ct. 05
Item No.39
06.07.2022
(suvendu)

WPA 14106 of 2022

Sk. Fajlur Rahman
Vs.
The Punjab National Bank & Ors.

Ms. Juin Dutta Chakraborty
.....for the petitioner
Mrs. Parna Roy Choudhury
.....for the respondent no.1
Mrs. Anju Manot
Mr. Bajrang Manot
....for the respondent nos. 2 to 4

The affidavit of service is taken on record.

The petitioner seeks relief against an E-auction Notice dated 26.05.2022.

The stand taken is that the petitioner is not the borrower under the provisions of the Securitization Act, 2002 and that the petitioner is entitled to come to the writ court for relief. Learned counsel appearing for the petitioner submits that since there is a question of livelihood involved the present writ petition attracts Article 21 of the Constitution of India.

The Bank and the Borrower are represented.

The impugned Notice appears to be the same Notice for sale of immovable properties of the

factory and building and other structures of the borrower being the respondent no. 2 before the Court. The ground urged by the petitioner is that the petitioner will face difficulties in approaching the Debts Recovery Tribunal which is the statutory forum under the 2002 Act.

This Court is not convinced by the reasons shown or the grounds pleaded in the present writ petition. The DRT is the statutory remedy provided under the 2002 Act for hearing matters of the present nature.

Section 17 of the 2002 Act further entitles “any person” to approach the DRT for appropriate relief. There is no explanation as to why the petitioner chose not to proceed before the DRT for relief.

The writ Court cannot exercise discretion in every matter on the ground of Article 21 specially when there is a special statute providing for an adequate alternative remedy to the litigants.

WPA 14106 of 2022 is accordingly dismissed without any order as to costs.

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

(Moushumi Bhattacharya, J.)

