

19th July,
2022
(AK)
07

W.P.A 15409 of 2022

M/s. Ayan Surgicals and others
Vs.
Asset Reconstruction Company (India) Limited and others

Ms. Avantika Sanyal
...for the petitioners.

Ms. Soni Ojha
...for the respondent nos.1 to 3.

The petitioners admittedly have received a possession notice of 17.05.2022 from the concerned Asset Reconstruction Company. The petitioners have, however, not challenged the said notice in the present writ petition. The court has come to know of the subsequent notice from the submissions made on behalf of the petitioners.

It is also undisputed that the petitioners have not approached the DRT which is the available statutory forum under the SARFAESI Act 2002. The contention that the DRT-3 is on cease work. There is no averment in the writ petition that the DRT-3 is on ceasework and the petitioners were therefore prevented from going before the DRT-3 for appropriate relief. Paragraph-10 of the writ petition merely states that the application filed by the petitioners is due to be withdrawn by reason of typographical errors.

This court is of the firm view that a litigant challenging a notice of sale or possession or any action of District Magistrate under the provisions of the SARFAESI

Act has to first approach the Debts Recovery Tribunal which is a statutory forum. The writ court cannot intervene. In the present case, the petitioners have also not been able to show his *bona fides* by filing an application before the DRT challenging the notice of 17.05.2022.

WPA 15409 of 2022 is accordingly dismissed without any order as to costs.

(Moushumi Bhattacharya, J.)