

Ct. 05
Item No.14
25.07.2022
(suvendu)

WPA 16454 of 2022

Aniruddha Mukherjee & Anr.
Vs.
The Authorised Officer,
Cholamandalam Investment & Finance
Company Limited & Ors.

Mr. Kallol Basu
Mr. P. Deb
Mr. S. Dubey
.....for the petitioners

Ms. Soni Ojha
Ms. Sambrita B. Chatterjee
.....for the respondent

no.1

The affidavit of service is taken on record.

The petitioners claim relief against a Notice of possession dated 22nd April, 2022 on the ground that the Presiding Officer of DRT –III has demitted the office. The date on which the Officer demitted the office has not been stated in the writ petition.

It appears from the submissions of learned counsel appearing for the Bank and the materials before the Court that the impugned order of the District Magistrate dated 22nd April, 2022 mentions two earlier Notices passed under Sections 13(2) and 13(4) of the SERFAESI Act, 2002. These

Notices are of 18.03.2021 and 25.11.2021 respectively. Admittedly, the petitioners have not challenged these two Notices before the DRT -III. The petitioners have, on the other hand, filed an application on 19.03.2020 before the DRT -III challenging two Notices dated 22.07.2019 and 16.10.2019 under the Act. The writ petition states that the petitioners have filed an application before the DRT against the order of 22nd April, 2022.

After hearing learned counsel and considering the materials on record, this Court is of the view that since the petitioners have not challenged the Notices under Sections 13(2) and 13(4) of the Act namely of 18.03.2021 and 25.11.2021, which have also been noted by the District Magistrate in the impugned order, the petitioners cannot maintain an application under Section 17 of the Act against a Notice of possession dated 22.04.2022 under Section 14 of the Act. The earlier Section 17 Application challenging the Notices of 22.07.2019 and 16.10.2019 have become infructuous since these two Notices were set aside by the DRT by an order dated 27.07.2020 passed in the earlier application filed by the petitioners.

This Court hence cannot grant any protection to the petitioners against the Notice of

22.04.2022 when there is no pending challenge to the Notices dated 18.03.2021 and 25.11.2021.

The petitioners have a statutory remedy available to it under the SARFAESI Act, 2002 and are at liberty to take recourse of the same.

WPA 16454 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.)