

28th July, 2022
(D/L No.24)
(SKB)

W.P.A. 16637 of 2022

Smt. Soma Goswami
-Versus-
ICICI Bank Ltd. and others

Mr. Jiban Ratan Chatterjee,
Mr. Sourav Chakraborty
... for the petitioner.

Mr. Subhankar Chakraborty,
Mr. Saptarshi Bhattacharjee,
Ms. Ruchira Manna
... for the Bank.

The short point before the court is whether the writ petition can be entertained having regard to the provisions of The SARFAESI Act, 2002.

According to the petitioner, the petitioner was not served a notice under Section 13(2) of The SARFAESI Act, 2002 and hence, the petitioner is not in a position to note the quantum of debt and the money to be paid to the Bank. Learned counsel submits that the petitioner is hence unable to file proceedings before the Debts Recovery Tribunal.

Learned counsel appearing for the Bank submits that the notice under Section 13(2) of The SARFAESI Act, 2002 was served on the petitioner.

Upon considering the notice under Section 13(2) of The SARFAESI Act, 2002 handed up to the court, it appears that the petitioner was named in the said

notice. The notice is in any event of 21st January, 2014. The possession has thereafter being taken over by the Bank on 22nd July, 2022.

This court is clearly of the view that relief in relation to the proceedings under The SARFAESI Act, 2002 can only be made to the statutory forum available to a party. This is the efficacious alternative remedy available to a party. The fact that the petitioner was not in a position to pay the amount for filing the application is not a ground for the writ petition to be entertained.

W.P.A.16637 of 2022 is dismissed without any order as to costs. The petitioner shall be at liberty of taking appropriate proceedings under the relevant statute.

Since affidavits have not been called for, the allegations made in the writ petition are deemed not to have been admitted.

(Moushumi Bhattacharya, J.)