

Ct. 05
Item No.24
10.08.2022
(suvendu)

WPA 18022 of 2022

**M/s. Himshila Ferro Alloys Pvt. Ltd. & Anr.
Vs.
Indian Bank & Ors.**

Mr. Siddhartha Banerjee
Mr. Debashis Karmakar
Mr. Arya Nandi
Mr. Satyam Ojha
.....for the petitioners
Mr. Om Narayan Rai
Ms. Anindita Das
.....for the Bank

The affidavit of service is taken on record.

The petitioners seek interim protection in terms of an E-auction Sale Notice dated 21st July, 2022 which was published in the newspaper on 26th July, 2022.

The petitioners assailed the Sale Notice in an application before the DRT –II on 4th August, 2022 but learned counsel appearing for the petitioners submits that the DRT –II is not functioning since 2nd August, 2022 in view of the concerned Member demitting office.

Learned counsel appearing for the Bank submits that the question with regard to the jurisdiction of the District Magistrate passing the order under Section 14 has been decided by the Courts. Counsel submits that the hearing before

the District Magistrate is scheduled for tomorrow, i.e. 11th August, 2022. Counsel also submits that the sale could not be given effect to on 08.08.2022 by reason of lack of bidders.

Upon hearing learned counsel, this Court is of the view that since the DRT –II is admittedly not functioning, the petitioners cannot be without a remedy by reason of the said fact. The petitioners shall hence be entitled to a limited order of interim protection with reference to the E-auction Sale Notice of 21st July, 2022 until one week after the DRT –II resumes its operation or the matter is assigned to any other Bench. The petitioners shall be at liberty of taking steps of expediting the procedure.

This Court, is however, not inclined to stay the proceedings before the District Magistrate.

The petitioners shall be at liberty of taking all points in relation to jurisdiction or otherwise before the District Magistrate and the Bank shall also have similar liberty of resisting such points.

WPA 18022 of 2022 is disposed of in terms of the above.

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

(Moushumi Bhattacharya, J.)