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ss/jks
21.09.2022

MAT 1286 of 2022
With
CAN 1 of 2022

PNB Housing Finance Limited (PNB HFL) & Anr.
Vs.
Orinon Tradecom Private Limited & Ors.

Mr. Anuj Singh
Ms. Niharika Singh
Mr. Ashok Kumar Singh
… … for the appellant

Mr. Suddhasatta Banerjee
Mr. Gaurav Singh
… … for the respondents

Mr. Anirban Ray, GP
Ms. Piyali Sengupta
Mr. Varun Kothari
… … for the State

The bank (respondent in the writ petition) is aggrieved with the order of the learned Single Judge dated 3rd August, 2022 whereby WPA 17505 of 2022 has been disposed of with an interim protection to the respondent borrower till the DRT-III starts functioning and granting liberty to the bank to expedite the proceedings before the DRT-III.

Facts in nutshell are that the respondent no.1 is a defaulting borrower and that proceedings under SARFAESI Act were initiated and the respondent no.1 had approached the DRT by filing an application being SA 76 of 2021 and during the pendency of the said application the District Magistrate, South 24 Parganas had passed the order under Section 14 of the Act. In IA 1192 of 2022 the order under Section 14 was questioned before the DRT but IA could not be further taken up after initial consideration because DRT had stopped functioning. Therefore the respondent borrower had approached the Writ Court with the prayer to extend protection against the order of the District Magistrate.

Learned Single Judge by the order under challenge has extended the interim protection till the issue is taken up by the DRT-III.

Submission of learned counsel for the appellant bank is that it is a public money and the learned Single Judge has committed an error in granting the interim protection without putting any condition and the merits of the controversy have not been examined by the learned Single Judge while passing the interim order and that the Court below ought not to have granted the blanket stay only on the ground that the application before the DRT is pending.

Learned counsel for the respondents has pointed out that now the charge of DRT-III has been given to DRT-I and the schedule of hearing has also been fixed.

Having examined the matter, we find that the learned Single Judge has only granted interim protection till the new Member is appointed in DRT-III or till the pending applications are assigned to any other Bench.

The notice dated 1st September, 2022 issued by the Registrar, DRT-III has been brought to the notice of this Court which makes it clear that the DRT-I, Kolkata has taken over the charge of DRT-III with effect from 30th

August, 2022 and a schedule of hearing of the matters pending before the DRT-III in the month of September has also been disclosed.

Hence, the borrower and the bank have the remedy to approach the concerned DRT with a prayer for expediting the hearing of the pending SA/IA in the DRT-III.

Considering the nature of controversy involved, we express hope that the hearing of the SA/IA pending before the DRT will be expedited and every attempt will be made by the concerned DRT to take up the matter within a schedule which is already fixed by notice dated 1st September, 2022.

In the above circumstances of the case, we refrain to interfere in the order passed by the learned Single Judge wherein for the time being only interim protection has been extended and leaving it open to both the parties to make their respective submissions before the DRT.

The appeal is accordingly disposed of.

Connected application is also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)