

09.03.2022
Ct. 21
D/L 02

C.O. 2277 of 2021
With
IA No. CAN 1 of 2022
(Via Video Conference)

KVR Steels Orissa Ltd. & Anr.
-Vs-
Indian Bank (erstwhile Allahabad Bank) & Anr.

Mr. Mainak Bose,
Mr. Suddhoswato Banerjee,
Ms. Anupa Banerjee,
Ms. Sanchita Barman Roy,

..for the petitioners

Mr. Shiv Mangal Singh

...for Opposite parties

Parties are represented by their respective learned
Advocates.

Revisional application is taken up hearing.

Present revisional application under Article 227 of
the Constitution of India is at the instance of
defaulters/borrowers challenging the order dated 8th
April 2021, 13th August 2021 and 29th September 2021
passed by DRT (Debts Recovery Tribunal 1, Kolkata) in
SA No. 61 of 2021.

It has been contended by the learned Advocate for
the petitioners that the bank has been sending and
publishing sale notice of the secured asset one after
another and which belongs to the deceased guarantor
without impleading the legal heirs of the deceased

guarantor and as such the sale notices are illegal. If such sale notices are given effect by DRT then its application under Section 17 of the SARFAESI ACT would be infructuous. He further submits that this Court being a constitutional Court has ample jurisdiction to bind the tribunal to act within its jurisdiction. Therefore, he submits the order impugned being illegal be set aside.

On the other hand learned Advocate appearing for the opposite parties/bank submits that by those three impugned orders have not decided any cause or right of the parties prejudicing their interest and as such no revision lies against the impugned orders. More so, the petitioners have participated in the argument before the learned DRT. He further submits that if the petitioners are aggrieved by the impugned orders then only remedy is to prefer an appeal. Therefore, he prays for dismissal of the revisional application.

Perused the impugned orders and from where it is seen being aggrieved by the sale notice dated 23.02.2021 the petitioners have filed IA 983 of 2021 on 08.04.2021. Therefore, learned DRT has directed the respondent bank to file affidavit in opposition against the said IA and also against the main SA with an opportunity to the petitioners/ borrowers to file rejoinder and had fixed the case on 18.05.2021 for final hearing and orders. Therefore, the order dated

08.04.2021 does not appear to be a final order which has decided either IA 983 of 2021 or SA 61 of 2021 filed by the present petitioners.

Similarly the order dated 13.08.2021 reveals that parties have agreed to settled the dispute between them and liberty was given to the parties to go for settlement as per policy of bank and guidelines of RBI and to submit the outcome of the settlement. So, there is nothing in the order which reveals that the cause and right of the parties was decided vide the said order prejudicing the interest of the present petitioners.

Similarly the order dated 20.09.2021 shows that the present petitioners had filed supplementary affidavit instead of affidavit in reply against affidavit in opposition filed by the bank against the main SA. It further appears on the said day the issue regarding maintainability of the SA was taken up for hearing and case was deferred for further hearing of argument from the side of the present petitioners.

Prima facie from the orders under challenge this Court does not find that learned DRT 1, Kolkata has decided any right or any cause of either of the petitioners or that of the opposite parties in respect of the disputed dues and secured assets causing any prejudice to the parties and giving right to the present petitioners to file the present revisional application. Therefore, this Court holds the present revisional

application is not maintainable against the impugned orders which appear to have been passed by learned DRT in regular course of hearing without passing any adverse orders against the petitioners.

Accordingly, **C.O. 2277 of 2021 is disposed of.**

Consequently CAN 1 of 2022 is also disposed of.

Interim order, if any, stands discharged.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(**Kesang Doma Bhutia, J.**)