

Ct. 05
Item No.03
17.11.2022
(Suvendu)

WPA 22004 of 2022

**M/s Ghosh Electrical Works & Anr.
Vs.
Punjab National Bank & Ors.**

Mr. Amarnath Sen
Mr. Malay Dhar

.....for the petitioners

Ms. Sanjana Nandi

.....for the Bank

By an order dated 20th October, 2022 passed by a Coordinate Bench in vacation the e-Auction Notice of the Bank dated 15th October, 2022 was stayed till 11th November, 2022. The reason given is of balance of convenience.

Learned counsel appearing for the parties are not in agreement with the submissions made before the Coordinate Bench. While the Bank states that the point of the SARFAESI Act, 2002 was taken, the petitioners say otherwise. Learned counsel appearing for the Bank also submits that the Bank followed the due procedure including the time period before issuing the e-Auction Notice of 15th October, 2022.

There is no dispute that the matter has been filed by a borrower and the e-Auction Notice was issued by the Bank under the provisions of the SARFAESI Act, 2002. The alternative remedy of the petitioners hence lies before the Debts Recovery Tribunal under the 2002 Act. The point of the Bank issuing the Notice in violation of the principles of natural justice is a point which can very well be argued before the statutory forum which is the DRT. The petitioners, being the borrowers, also come squarely within Section 17(1) of the 2002 Act.

The supplementary affidavit of the petitioners containing a subsequent e-Auction Notice issued by the Bank dated 6th November, 2022 is on record.

WPA 22004 of 2022 is hence disposed of without any order as to costs.

The petitioners shall have the liberty of approaching the statutory alternative forum available to them for seeking appropriate relief. Since the petitioners have enjoyed an interim order with regard to one e-Auction Notice of 15th October, 2022, the protection given to the petitioners by the Coordinate Bench shall extend to the subsequent Notices until the petitioners

move the DRT but not beyond 30th November, 2022.

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

(Moushumi Bhattacharya, J.)