25th November, 2022
(D/L No.3)
(SKB)

W.P.A. 23902 of 2022

KVR Steel Orissa Ltd. and another
Versus
Indian Bank and others

Mr. Mainak Bose,
Mr. Rishavh Karnani,
Ms. Anupa Banerjee,
Ms. Sanchita Barman Roy
… for the petitioners.

Mr. Shivmangal Singh
… for the Bank.

Mr. Kanishk Kejriwal,
Ms. Swetank Rai
… for respondent no.6.

Learned counsel appearing for the petitioners make it clear at the outset that the petitioners are not claiming any relief under the SARFAESI Act, 2002. Counsel submits that the petitioners are already before the DRT and the petitioners will take suitable recourse for their grievance in relation to the SARFAESI Act, 2002 before the DRT. Counsel clarifies that the petitioners' secured asset has already been sold by the Bank in March, 2022 as per the submission made on behalf of the Bank before a Coordinate Bench sitting in Vacation. The controversy before this court is of a One-time Settlement(OTS) which, according to the petitioners, was discussed at a meeting with Wilful

Defaulter Committee of the Bank on 25th August, 2022. The petitioners made an offer of 50% of Rs.1.50 crores to the Bank subject to the Bank permitting the petitioners to operate their account. Since this was not done, there was no progress in the OTS.

Learned counsel appearing for the Bank submits that the petitioners have defaulted on their obligation to make payment of 50% of the 1.50 crores within the time specified by the Committee. It is also submitted that the petitioners are now trying to compel the Bank into entering into an OTS.

After hearing learned counsel and considering the materials before the court, it is admitted that at least three letters dated 30th August, 2022, 1st September, 2022 and 2nd September, 2022 were exchanged between the parties regarding the OTS. It is only much later in October, 2022 before the Vacation Bench that the Bank submitted that the OTS was for the balance amount of the total dues from the petitioners less the amount recovered from selling of the petitioners' secured asset.

Since the Bank has not disputed the fact of exchanging such letters and also did not facilitate the payment of 50% of the OTS by permitting the petitioners to operate their account, the Bank cannot take a position which is contrary to the stand taken in August/September, 2022.

This court is not inclined to go into the nitty-gritties of the outstanding amount which is owed by the petitioners from the Bank. However, the Minutes sought to be relied by the Bank of the Wilful Defaulter Committee meeting held on 25th August, 2022 should be made over to the petitioners so that the petitioners can improve their stand in pending proceeding before any forum. The disagreement with regard to what transpired in the said meeting should be set at rest if the Bank is directed to disclose this minutes to the petitioners. The Bank is also directed to consider any offer made by the petitioners of OTS subject to the offer being made within seven days from 28th November, 2022. Needless to say, the Bank shall consider the offer under the relevant RBI Act and guidelines.

W.P.A.23902 of 2022 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)