

21.12.2022
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WPA 28127 of 2022

Dipak Kumar Giri
-Vs-
Canara Bank & Ors.

Mr. Suddhasatva Banerjee,
Mr. R. Chowdhury,
Mr. Akash Dutta

... for the petitioner

Mr. Subir Banerjee,
Mr. Sayak Mitra

... for the respondent Bank

The petitioner simply seeks a direction on the respondent no. 3 being the Registrar, Debts Recovery Tribunal-II, Kolkata, to permit the petitioner to file the application under Section 17(1) of the SARFAESI Act, 2002.

The relief sought for is supported by the pleadings in the writ petition and the documents, which form part of the papers before the Court. The material shows that the petitioner affirmed the application under Section 17(1) of the 2002 Act and the same was ready for filing on 14th December, 2022. The demand draft was also made ready on 13th December, 2022 for the purpose of filing of the application.

The relevant paragraph of the writ petition, however, records that the respondent no. 3 refused to

accept the filing of the application citing the ground of limitation. It may be relevant to mention that the case sought to be made out in the writ petition against the ground of limitation is that the impugned order passed by the District Magistrate, Purba Medinipur under Section 14 of the 2002 Act is dated 3rd March, 2022, however, the petitioner claims to have received the impugned order on 7th December, 2022 from a representative of the respondent Bank.

Whatever be the merits of the petitioner's claim or the defence to the question of limitation, the Registrar of the Debts Recovery Tribunal (DRT) certainly has no authority to decide on the question of limitation. The question of limitation, if at all, has to be decided by the Presiding Officer of DRT-II. The function of the Registrar is to check whether the technical and other requirements of filing are satisfied as on the date of filing of an application by the parties.

WPA 28127 of 2022 is hence disposed of with a direction on the respondent no. 3 to permit the petitioner to file the application under Section 17(1) of the 2002 Act. The question of limitation, which has been raised by the learned counsel appearing for the respondent Bank, shall be raised by the parties before the statutory alternative forum available to the petitioner under the 2002 Act.

Since the petitioner has lost seven days in the interregnum, the respondent Bank shall wait before taking any steps against the petitioner till after orders are passed by the concerned DRT. The contention of the petitioner that the respondent Bank has waited from March to December, 2022 before taking any action is taken note of.

This order is made subject to the petitioner taking appropriate steps before the DRT-II by 6th January, 2023.

It is further directed that the respondent Bank shall be at liberty to take steps in the event the petitioner fails to comply with the liberty granted by this Court.

(Moushumi Bhattacharya, J.)