

OD-4

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1969/2022

THE ADMINISTRATOR OF THE SPECIFIED UNDERTAKING OF THE UNIT TRUST OF
INDIA AND ANR.

VERSUS

THE RECOVERY OFFICER, DEBT RECOVERY TRIBUNAL-III, KOLKATA AND ORS.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 21st April, 2022

Appearance:

Mr. Sanjib Dawn, Adv.

Mr. Victor Dutta, Adv.

The Court :- Despite service only the State Bank of India is represented.
Affidavit-of-service filed in Court today is taken on record.

The writ petitioner claims to be the secured creditor of the 4th respondent company (in liquidation).

In proceedings instituted before the Company Court attached to the Odisha High Court, the said 4th respondent was sent into liquidation. The petitioner claims to hold fully non-convertible debenture of the 4th respondent. The second respondent was the debenture trustee who had assigned its assets and liabilities and interests in the 4th respondent, to the 3rd respondent.

The said 3rd respondent is stated to have instituted proceedings before the Debts Recovery Tribunal-III at Kolkata being TA No.1 of 2012. In which a judgment has been delivered in favour of the applicant. Alleging the 4th respondent Company (in liquidation) have been sold and sale proceeds lie deposited with the said DRT No.III. The writ petitioner had made repeated

attempts to participate in the proceedings before the DRT-III, and in January, 2020, even attempted to join the proceedings of IA No. 1 of 2012 via an interim application, but was unable to do so as the arguments were closed. Thereafter, the petitioner attempted to file appeal before the DRAT, but could not for want of locus standi.

Recovery proceedings have already commenced following the DRT-III, Kolkata in respect of judgment and certificate dated September 28, 2020.

In that view of the matter, the petitioner shall be entitled to participate in the recovery process and/or distribution process of the sale proceeds before the Debts Recovery Tribunal at Kolkata and may prove its claim thereat.

With the aforesaid observations, WPO No. 1969 of 2022 is disposed of.

(RAJASEKHAR MANTHA, J.)