

OD-6

ORDER SHEET

WPO/2369/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

GOODLUCK HOSIERY MILLS PVT. LTD. AND ANR.
VERSUS
THE PRESIDING OFFICER, DEBT RECOVERY TRIBUNAL, KOLKATA AND
ANR.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : July 26, 2022.

Appearance:

Mr. Gautam Mitra, Adv.

Mr. Rishad Medora, Adv.

Mr. Meghajit Mukherjee, Adv.

Ms. Priyanka Sharma, Adv.

Mr. Vidhya Bhusan Upadhyay, Adv.

Ms. Soni Ojha, Adv.

Ms. Sambrita B. Chatterjee, Adv.

The Court: By an order dated 11th July, 2022, this Court had disposed of the earlier writ petition by giving a limited protection to the petitioners. The Finance Company was restrained from acting in terms of a notice of possession dated 13th June, 2022 only one week after the resolution of the cease work before DRT-III. The interim relief was given on the basis of the petitioners showing their *bona fides* by approaching the DRT-III with a prayer for stay of the notice of possession. The Court had, therefore, taken into account the fact of the DRT-III not functioning and the alternative efficacious remedy not being available to the petitioners at the relevant point of time.

Learned counsel appearing for the petitioners now complains that the ceasework has been resolved as of 15th July, 2022 but that the impasse continues since their concerned member demitted office on 15th July, 2022 itself.

Learned counsel appearing for the Finance Company takes an objection to the prayers in the writ petition which are for stay of the notices dated 10th September, 2018 issued under Section 13(4) of the SARFAESI Act, 2002.

Upon hearing learned counsel, the petitioners are admittedly without the alternative statutory remedy available to them under the provisions of the 2002 Act. The petitioners have also showed their *bona fides* by filing an application for interim relief before the DRT-III on 20th July, 2022. The prayers in the application indicate that the petitioners sought for protection against the notice dated 13th June, 2022.

Considering the fact that the DRT-III continues to remain vacant and non-functioning, the petitioners shall be protected by an interim order till one week after the member assumes office of the DRT-III or till one week after the charge of DRT is handed over to any other Bench or the pending application of the petitioners is assigned to an existing functioning Bench of the DRT. The Finance Company shall also be at liberty of taking appropriate steps before the DRT for hearing of the matter.

Till the subsistence of the interim order, the Finance Company shall not take any steps against the petitioners in terms of the notices issued by it.

It is made clear that this order is only interim in nature and the Court has not gone into the merits of the matter.

WPO No. 2369 of 2022 is disposed of in terms of the above.

(MOUSHUMI BHATTACHARYA, J.)

sg.