

12.04.2023
Item No.7
gd/ssd

MAT/58/2023
IA NO: CAN/1/2023
CHIEF MANAGER PUNJAB
NATIONAL BANK AND ORS.
VS
ANJANA DE AND ORS.

Mr. Abhishek Banerjee,
Ms. Parna Roy Choudhury
..for the Appellants.

Mr. Kamalesh Bhattacharya,
Mr. Aninda Bhattacharya
..for the Private Respondents.

1. This intra court appeal by the Punjab National Bank, respondent in WPA 24716 of 2022 is directed against the order dated 14th December, 2022 by which the learned Writ Court refused to entertain the writ petition challenging a notice issued under Section 13(4) of the SARFAESI Act, 2002.
2. The appellant bank is aggrieved by the penultimate portion of the order by which the appellant bank was directed not to take any action against the writ petitioner until the matter is taken up for consideration by the DRT.
3. In our considered view, once a Court comes to a conclusion that the petition is not maintainable and no interim order can be granted while dismissing the petition which will operate beyond the order passed in the writ petition, the legal position is very clear as

held by the Hon'ble Supreme Court in several decisions that a writ petition is not the remedy against any measure taken by the bank under the provisions of the SARFAESI Act.

4. The learned Advocate appearing for the respondent/writ petitioner would submit that the writ petitioner has already approached the Debts Recovery Tribunal and there is also an order passed by the Civil Court.

5. If that be so, it is well open to the writ petitioner to seek appropriate interim protection before the Debts Recovery Tribunal.

6. With the above observation, the appeal is allowed.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)