

18.09.2023

Item No.2

Ct. No.1

PG/KS

M.A.T. 280 of 2023
With
IA No. CAN 1 of 2023
Ranjit Kumar Maji & Ors.
Versus
Union of India & Ors.

Sardar Amjad Ali, Sr. Adv.
Mr. Dilip Kumar Samanta
.....for the Appellants

Mr. Debashis Saha
Mr. Hemraj Adhikari for the S.B.I.

Ms. Hasi Saha for the Union of India

1. We have heard Sardar Amjad Ali, learned senior advocate for the appellants, Mr. Debashis Saha, learned advocate for the State Bank of India and Ms. Hasi Saha, learned advocate for the Union of India.
2. This intra-Court appeal is directed against the order dated 7th February, 2023 in W.P.A. 1054 of 2023. In the said writ petition, the appellants prayed for setting aside the communication issued by the respondent/bank dated 3rd January, 2023. The ground of challenge is that the bank has taken physical possession of the residential house of the appellants without due recourse to the relevant statute.

3. The learned Single Bench after taking note of the facts has recorded that the District Magistrate has passed an order on 10th March, 2022 for taking over possession of the secured assets of the borrowers, who are the appellants before this Court and the physical possession of the immovable property described as secured immovable property in a certificate of possession dated 7th January, 2023 was taken over by the learned Executive Magistrate on that date and the appellants have admittedly not challenged the order of the learned District Magistrate or the consequent possession of the immovable asset.
4. The other aspect with regard to the notice issued in respect of Rule 4 of the Security Interest (Enforcement) Rules, 2002 was also examined by the learned Single Bench and it has been held that the bank had placed a document of 7th January, 2023, which contains the signatures of the appellants for making an inventory of the moveable assets at the time of taking possession of their immovable secured asset. Accordingly, the writ petition was disposed of granting liberty to the appellants to remove all the moveable assets within the secured asset (house) as mentioned in the inventory in the presence of the representative of the bank within a time frame.

5. Thus, we find that the order passed by the learned Single Bench is a well-reasoned order and does not call for any interference.
6. Accordingly, the appeal fails and is dismissed along with the connected application.
7. No costs.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)