

15 12.04.2023  
RP Ct. No. 01  
AN

MAT 517 of 2023  
With  
IA No. CAN 1 of 2023  
Ajijul Mallik & Anr.  
Vs.  
Union of India & Ors.

Mr. Dilip Samanta  
Mr. Masud Karim  
Mr. Abhijit Chatterjee  
Ms. Tithi Paul  
Mr. Arka banerjee  
Mr. Galib Ahsan

... For the Appellants

1. The writ petitioners being aggrieved by the observations made in the order dated 15.03.2023 passed in WPA 6060 of 2023 have filed this appeal.

2. The grievance of the appellants is that DRT-II, Kolkata has not been holding sittings on account of the vacancy and the appellants have moved an application for stay of the sale notice issued by the respondent bank and before the said application can be taken up by the DRT if the respondent bank proceeds to sell the property in question, the rights of the appellant would be jeopardized. The learned Single Bench restrained the respondent bank from taking steps in terms of the sale notice dated 21<sup>st</sup> March, 2023 and directed the petitioners to take requisite steps under Section 17A of the SARFAESI Act, 2002 in the matter of approaching the DRT for assignment of the matter before any other Bench.

3. The learned advocate appearing for the appellants is right in his submission that there is no

enactment of 2022. In all probabilities, it is a typographical mistake as the SARFAESI Act is of the year 2002. Furthermore, Section 17A deals with the different aspects with regard to making an application to a Court of the District Judge in certain cases.

4. With the above clarification, the appeal stands **disposed of** by directing the DRT-II, Kolkata to take up and consider the application filed by the appellants praying for stay of the sale notice dated 21<sup>st</sup> February, 2023 issued by the respondent bank and take a decision on the said application within a period of 15 days from the date of receipt of the server copy of this order. Till then the sale notice shall not be enforced by the respondent bank. Consequently, the connected application also stands disposed of.

5. We are informed that though there was a vacancy in DRT-II, Kolkata, the Presiding Officer from DRT, Siliguri is taking up the matters assigned to DRT-II, Kolkata on every Friday from 3.00 P.M. through video conference. Thus, considering the prevailing circumstances, priority may be granted to the application filed by the appellant and the prayer for stay may be considered on merits and in accordance with law.

**(T. S. Sivagnanam)**  
**Acting Chief Justice**

**(Hiranmay Bhattacharyya, J.)**

