

29.03.2023
SL No.15
Court No.8
(gc)

**FMA 879 of 2010
CAN 2 of 2011 (Old No: CAN 1742 of 2011)
CAN 3 of 2019 (Old No: CAN 12336 of 2019)
CAN 4 of 2022**

**M/s. Khalsa Tubes Pvt. Ltd. & Anr.
Vs.
Union Bank of India & Ors.**

Mr. Sudip Pal Chaudhuri,
Ms. Diya Nandi,
...for the Respondent Nos.1 to 6.
Mr. Sourajit Dasgupta,
Mr. Arnab Dutta,
...for the Intervener.

The appellants are not represented, nor any accommodation is prayed for on behalf of the appellants. On the earlier occasion, we adjourned this matter on the prayer of Mr. Haradhan Banerjee, learned Senior Advocate representing the appellants.

The appeal is arising out of an order rejecting the plaint in view of Section 34 of the SARFAESI Act.

Mr. Sudip Pal Chaudhuri, learned Counsel representing the bank has submitted that the suit was filed after proceeding under the Securitization Act was initiated and none of the reliefs in the claim could be allowed by any Civil Court in view of Section 34 of the SARFAESI Act.

In view of the fact that the appellants have not challenged the enforcement of the security interest by secured creditor, a remedy that was available to the

borrower and also having regard to the fact that the suit was filed primarily to circumvent the proceeding initiated under the Securitization Act, we do not find any reason to interfere with the order passed by the learned Trial Judge.

The appeal, accordingly, stands dismissed.

In view dismissal of the appeal, the connected applications also stand dismissed.

However, there shall be no order as to costs.

All interim orders, if any, stand vacated.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)