

23rd June,
2023
(AK)
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W.P.A 14219 of 2023

Mr. Sanjay Kumar Kawtia and others
Vs.
Karnataka Bank Limited

Mr. M.S. Tiwari
Mr. Shambu Mahato
Ms. Shweta Poddar

...for the petitioners.

Mr. Anirban Pramanick

...for the respondent-Bank.

Learned counsel for the petitioners submits that the petitioners were unable to repay a loan, for which a proceeding under the SARFAESI Act was initiated, which is being attended by the petitioners.

That apart, the respondent-Bank is seeking to take possession from the petitioner as well as to declare the petitioners to be willful defaulters.

It is contended that the petitioners have sought for a personal hearing, without giving which the respondent-Bank is intending to declare the petitioners as willful defaulters under the corresponding Master Circular of the Reserve Bank of India.

Learned counsel for the Bank contends that the writ petition is not maintainable and is premature.

Apart from the fact that the respondent-Bank is not a Government or Nationalized Bank, the other aspect remains that the petitioners do not have any cause of action as yet, since no declaration of willful defaulter has been taken by the Bank.

The petitioners, it is contended, seek to avoid appearance in Karnataka, where the head office of the respondent-Bank is located, for which the respondent-Bank is even considering the possibility of giving a hearing by way of video conference.

Be that as it may, the Bank is justified in pointing out that the writ petition, at this juncture, is premature, since only a show cause notice has been given to the petitioners by the Bank for giving a hearing on the declaration of willful defaulter.

Such proposed declaration has not yet furnished any cause of action to the petitioners.

However, since the Bank has taken a rational view in considering video conferencing as an alternative mode of hearing, the Bank shall reach a conclusion in that regard as to whether the petitioners should be given a personal hearing or an online hearing for the purpose of the proposed declaration of willful defaulter.

Such hearing shall positively be given to the petitioners by prior notice by the respondent-Bank in writing.

There is no further scope of any interference as such, at least at this stage.

Accordingly, WPA 14219 of 2023 is disposed of without any order as to costs in the light of the above observations.

Since no affidavits have been invited, it is deemed that none of the allegations made in the writ petition are admitted by the respondent.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)