

19.06.2023

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CRR 2646 of 2011

In the matter of : M/s. Hotel Ronit.

.... for the petitioner.

Mr. Bidyut Kumar Roy

Ms. Sima Biswas

..... for the State

The instant criminal revisional application is pending since 2011 and as such, is required to be disposed of.

From the record it appears that the petitioner for the purpose of constructing a three-star hotel applied before the respondent Nos. 2 and 3 seeking a sanctioned term loan of Rs.300 lacks in the month of May 2009 on the terms and conditions contained in the sanctioned letter dated 14.05.2009 after completion of due formalities. The terms and conditions of the loan agreement as aforesaid concerned equitable mortgage loan for building the name of the firm and its partner particularly described in the sanction letter dated 14.05.2009 with further hypothecation of movable assets of the firm. The aforesaid loan was required to be reimbursed within six years by 24 quarterly installments of Rs. 6.50 lacks for (1st eight quarterly installments) respectively and thereafter to pay a sum of Rs. 12.50 lacks for further eight quarterly installments respectively and sum of Rs. 18.50 lacks for the last eight quarterly installments from October 2009 till July, 2015. The petitioner due to paucity of labour faced difficulty in the construction of the proposed hotel and failed to complete the construction within the stipulated period and requested to extend the period of construction and moratorium which was refused by the respondents and therefore several requests

to extend the time for payment of the installment by the petitioner. The respondents did not accede to the same. Notices were issued to the petitioner under the SARFAESI Act, 2002.

The Chief Judicial Magistrate had passed in order under Section 14(2) of the SARFAESI Act, 2002 on 01.07.2011 being Miscellaneous Case No. 93 of 2011. The petitioner stressed the aforesaid order is beyond the jurisdiction of the learned Chief Metropolitan Magistrate, Barasat and therefore, the entire proceedings should be quashed.

The dispute between the parties is primarily civil in nature and the Chief Judicial Magistrate, Barasat has no jurisdiction to pass the impugned order.

Accordingly, the instant revisional application is disposed of.

Copy of the order be sent to the Department as well as trial court for due compliance.

(Ananya Bandyopadhyay, J.)