AD-14
Ct No.09
06.10.2023
TN

WPA No. 18861 of 2023

State Bank of India
Vs.
State of West Bengal and others

Mr. Pijush Kanti Ray,
Mr. Sourajit Mukherjee
.... for the petitioner

Mr. Siddhartha Banerjee,
Mr. Debashis Karmakar
.... for the respondent nos.6 to 11

1. Affidavit-of-service filed today be kept on record.

2. Learned counsel for the petitioner-Bank submits that the petitioner's application under Section 14 of the SARFAESI Act, 2002 is pending for an inordinate period. Although the respondents-borrowers have approached the Debts Recovery Tribunal with an application under Section 17 of the SARFAESI Act, 2002, a limited order, it is argued, was passed on July 07, 2022 subject to the respondents-borrowers approaching the Bank within fifteen days with a proposal for compromise. Subsequently such a proposal was made by the borrowers but refused by the Bank. The same was succeeded by further proposals which were all rejected by the Bank.

3. It is also pointed out that the order granting interim relief to the borrowers was challenged by the Bank before the Appellate Tribunal, which was dismissed in view of the rejection of the OTS proposal of the private respondents by the Bank. It is sought to be argued that since the OTS proposal has failed, the limited force of the order dated July 07, 2022 has spent itself and, as such, there is no bar for the Section 14 application of the Bank to be disposed of.

4. Learned counsel for the respondents-borrowers opposes the prayer of the petitioner and submits that the tenor of the order dated July 07, 2022 was not restricted to a particular time period but is still in operation since the borrowers approached the Bank within fifteen days as stipulated therein.

5. A perusal of the relevant portion of the order dated July 07, 2022 of the Debts Recovery Tribunal shows that the prayer of the respondents/borrowers for a direction upon the Bank not to take any coercive step was allowed, subject, however, to the applicant/borrowers approaching the Defendant Bank within fifteen days from the date of the said order.

6. It is undisputed that the borrowers had approached the Bank during such time frame, which proposal was, of course, rejected by the Bank subsequently.

7. However, in view of the language of the order dated July 07, 2022, nothing hinges on the proposal for compromise being rejected by the Bank, since the order was not time-bound, but only conditional upon the borrowers approaching the bank within fifteen days.

8. The operation of the order still subsists in view of the private respondents having complied with the only condition thereunder, which was to approach the Bank within fifteen days thereafter.

9. Since the appeal against the same has been dismissed, for whatever reason, the said order has attained finality. As such, it would not be prudent for this court, sitting in the writ jurisdiction under Article 226 of the Constitution of India, to direct the disposal of the Section 14 application of the Bank, thereby rendering nugatory the order dated July 07, 2022 passed by a competent Tribunal.

10. However, it is expected that the application of the borrowers under Section 17 of the SARFAESI Act, 2002 shall be decided as expeditiously as possible by the Tribunal, preferably within December 31, 2023.

11. Accordingly, WPA No. 18861 of 2023 is disposed of in the light of the above observations.

12. There will be no order as to costs.

13. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)