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W.P.A. No. 28983 of 2022

M/s. Vishal & Vishal
Vs.
Punjab National Bank & Ors.

With

W.P.A. No. 21449 of 2022

Punjab National Bank & Anr.
Vs.
The District Magistrate,
North 24 Parganas & Ors.

Mr. Subranil Chakraborty,
Mr. Subhadip Biswas,
Ms. Priyanka Anand Sharma
... for the petitioner in
W.P.A. 28983 of 2022

Mr. Abhishek Banerjee,
Ms. Parna Roy Choudhury,
Mr. Avishek Choudhury
...for the petitioner in
W.P.A. 21449 of 2022 and
for the respondents in
W.P.A. No. 28983 of 2022

Mr. Shamit Sanyal,
Ms. Priyankshi Banerjee
...for the respondent no. 6
in both the matters

W.P.A. No. 28983 of 2022 has been preferred by the petitioner, one M/s. Vishal & Vishal, against an order passed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the Act of 2002”). It is submitted that the petitioner has challenged the

valuation of the sale which has already been undertaken.

It is contended that the petitioner has preferred a challenge before the Debts Recovery Tribunal (DRT) itself as well as an appeal before the Debts Recovery Appellate Tribunal (DRAT), both of which are pending. However, since the matter is fixed only on January 24, 2023 before the DRAT and still later in the DRT, the petitioner is apprehending a coercive step may have been taken on the basis of the order passed under Section 14 of the Act of 2002.

It transpires from the order dated July 14, 2022 passed by a coordinate Bench of this Court in W.P.A. No. 14391 of 2022, annexed at page 115 of W.P.A. No. 28983 of 2022, that on a previous occasion the petitioner had moved another writ petition, in which, having regard to the fact that a cease-work was going on before the DRT-III, the petitioner was given a limited protection by restraining the respondent-bank from taking any coercive action against the petitioner until one week after the cease-work before the DRT-III was resolved. That order was made subject to the petitioner filing an appropriate application before the DRT-III within four days and upon relevant information being furnished by the respondent-bank during the course of the said date.

Heard learned counsel for the parties.

Since the petitioner has already taken advantage of the leniency of the Court by getting a limited protection without even considering the *prima face* case of the petitioner, the petitioner ought not to be given such opportunities again and again, since it is well settled that the woes of the decree-holder starts only after the decree is passed.

In the event the petitioner has any remedy before the DRAT or in the DRT in law, the petitioner may take recourse to the same. Liberty is given to the petitioner to move the DRAT for early hearing of the pending application of the petitioner before the said forum. However, there is no scope of granting any further protection to the petitioner at this stage.

Accordingly, W.P.A. 28983 of 2022 and W.P.A. 21449 of 2022 are disposed of by granting liberty to the petitioner to move the DRAT and/or DRT for early fixation of the pending applications of the petitioner before the said forums.

It is, however, made clear that the merits of the respective contentions of the parties have not been gone into by this Court at all even on a *prima facie* basis. It will be open to the DRAT and DRT to consider all questions in accordance with law upon giving opportunity of hearing to the parties.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)