

Item No. 32
11.10.2023
Court. No. 19
GB

C.O. 3469 of 2023

Ananta Sadhukhan
Vs.
Authorized Officer of Central Bank of India & Anr.

Ms. Pampa Dey (Dhabal)

...for the Petitioner.

The order impugned dated September 21, 2023 passed by the Presiding Officer, DRT-III, Kolkata is an appealable order.

It appears that the SARFAESI application was filed by the petitioner alleging that on May 2, 2022 the bank had issued one notice asking the petitioner to hand over vacant peaceful possession of the mortgaged property on or before May 10, 2022. On May 27, 2022 the bank issued another notice for taking over possession on June 2, 2022. On June 2, 2022 the opposite party bank went to the house of the petitioner and dispossessed the petitioner from the house. The petitioner, on several occasions, approached the bank to settle the loan account, but the bank did not respond. Ultimately, on August 19, 2023 the bank issued a sale notice fixing sale on September 22, 2023.

The petitioner approached the DRT-III assailing such notice. The petitioner stated that the notice was not issued in accordance with Rule 8(6) of the Security Interest (Enforcement Rules), 2002 and the petitioner prayed for appropriate orders for stay of the auction.

The advocate for the bank appeared before the learned tribunal and submitted that the formalities had been complied with. Paper publication had been made. The statutory notices had been issued according to the provisions of Rule 8(6) and Rule 9(1) of the Security Enforcement Rules, 2002. The reserve price was also mentioned in the notice. Considering all the aspects, the tribunal did not find any urgency to stall the proceeding schedule to be held on September 22, 2023. Thus, I.A. 2353 of 2022 which was filed in connection with SA 202 of 2021, was rejected.

The right of redemption is upto the publication of the sale notice and not thereafter. The petitioner is not in a position to address this Court as to whether the sale had taken place.

This Court does not find any reason to interfere with the findings of the learned tribunal on the following grounds:-

- a) There is a provision of appeal.
- b) The petitioner has not been able to show that the conditions for interference under Article 227 of the Constitution of India, exists. In this case, alternative remedy is a bar.
- c) There has not been any violation of the principle of natural justice.
- d) The order impugned is not ex facie barred by any law or contrary to the provisions of law. The order impugned has not curtailed any fundamental right

of the petitioner. The tribunal has applied its mind to the issues raised by the petitioner

e) Admittedly, the petitioner has been dispossessed.

Under such circumstances, the revisional application is disposed of. The petitioner is at liberty to file an appeal in accordance with law.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)