

D/L. 20.
November 30, 2023.
MNS.

WPA No. 24373 of 2023

M/s. Vijay Saw Mill
Vs.
Canara Bank and another

Mr. Partha Sarathi Bhattacharjee,
Mr. Supratim Dhar,
Mr. Kunal Ganguly,
Mr. Tirupati Mukherjee

... for the petitioner.

1. Learned counsel for the petitioner submits that the petitioner challenged a notice under Section 13(2) of the Securitization And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) issued by the respondent-Bank. During the pendency of the writ petition, however, a measure has been taken by the Bank under Section 13(4) of the SARFAESI Act, 2002.
2. It is submitted that the concerned Bench, that is, the Second Bench of the Kolkata Debts Recovery Tribunal, where the petitioner's application under Section 17 of the SARFAESI Act, 2002 is pending, has not been functional during the relevant period.

3. Accordingly, the petitioner seeks a limited protection till the petitioner can move the application under Section 17 of the SARFAESI Act, 2002.
4. However, in the opinion of this Court, since the measure under Section 13(4) of the SARFAESI Act, 2002 has been taken only recently during the pendency of the writ petition, no interim protection is required to be given to the petitioner at this juncture, particularly since the petitioner's application under Section 17 of the SARFAESI Act, 2002 is already pending.
5. Insofar as the non-functioning of the concerned Bench of the Tribunal is concerned, the petitioner is always at liberty to approach the Debts Recovery Appellate Tribunal seeking reassignment of the matter before an operational Bench.
6. Accordingly, WPA No. 24373 of 2023 is disposed of by granting liberty to the petitioner to approach the Appellate Tribunal with a prayer for assignment of the petitioner's application under Section 17 of the SARFAESI Act, 2002 to some other functioning Bench than the Bench where it is

now pending for the purpose of early disposal of the same.

7. If such a prayer is made in writing in appropriate format by the petitioner before the Debts Recovery Appellate Tribunal within a week from now, the Debts Recovery Appellate Tribunal shall decide the same as expeditiously as possible, preferably within a week thereafter, and reassign the matter to some other functional Bench.
8. There will be no order as to costs.
9. 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.)

