**29.09.2023**
**Court No.1**
**Item No. 46**
**pk/AP**

# HIGH COURT AT CALCUTTA
# CIRCUIT BENCH AT JALPAIGURI

**MAT 11 of 2021**
**With**
**CAN 4 of 2021**
**With**
**CAN 5 of 2021**

**Rithvik Bhattacharya**
**Vs.**
**Central Bank of India Limited and Ors.**

(Through video conference)

Ms. Esha Acharya
... For the Appellant.

Mr. Rahul Mishra
Mr. Arijit Ghosh
... For the Respondent Nos.1 to 5.

Mr. Avishek Guha
Mr. Arjun Chowdhury
Ms. Pratusha Dutta Chowdhury
Ms. Riya Agarwal
... For the Respondent No.6.

1. The appeal is directed against a judgment and order dated 14th October, 2022 passed by a Single Bench of this Court in WPA 8096 of 2020.

2. The writ petitioner/appellant is a third party, who did not even participate in an auction that was conducted by the Bank under the SARFASEI Act, 2002. He is desperate to buy the secured asset. He offers a price higher than what the borrower wants to offer the bank to repay the bank dues.

3. The borrower, 6th respondent, has offered the bank a settlement under the RBI OTS scheme and/or some other schemes in accordance with law. The bank was directed by the Debts Recovery Tribunal and the High Court to consider the borrower's offer. .

4. If the bank accepts the offer of 6th respondent/borrower and accepted dues are received, the charge of the bank on the tea estate would be released and the secured asset would revert back to the borrower.

5. The appellant is a third party hustling and gambling and appears to be enticing the bank with a juicy higher price to snatch away the secured asset, without even participating in the auction. This is not permitted under the SARFASEI Act 2002 without the express consent in writing of the borrower/respondent no. 6.

6. The appellant appears to be a "proverbial fox out to snatch away the fish", in a dispute between the bank and the borrower.

7. It is for the bank and the borrower to settle disputes between them and at whatever terms. The DRT, the High Court and much less the appellant can have no authority to compel the bank to settle accept any amount from its borrower.

8. It appears that initially in this appeal an interim order was passed by a Coordinate Bench on 18th November, 2020.

9. The appellant carried the same before the Hon'ble Supreme Court in Petition for Special Leave to Appeal (C) No.6556 of 2022, which was dismissed on 11th July, 2022. A review application of the said order of dismissal has also been rejected on 28th September, 2022. A curative petition is stated to be pending.

10. This court is of the unequivocal view that the writ petition and the appeal are in gross abusive of process of law. The appellant wants the secured asset by any means. The concern being expressed by him for recovery of the bank's dues is motivated and misplaced if not entirely dishonest.

11. In those circumstances, MAT 11 of 2021 shall stand dismissed with costs assessed at Rs.1,00,000/- payable by the appellant to the respondent No.6 and the bank in equal proportion.

12. In view of the dismissal of the appeal, connected applications are also dismissed.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**

**(Supratim Bhattacharya, J.)**