

ORDER

OD – 1

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/142/2020
WITH
WPO/368/2020
IA NO: GA/1/2020

DR. ANUPA PAL NEE GHOSH
VERSUS
STATE BANK OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE V.M. VELUMANI

The Hon'ble JUSTICE RAI CHATTOPADHYAY

Date : 28th August 2023.

Appearance:

Mr. Anubhav Sinha, Advocate
Ms. Sanchita Barman Roy, Advocate
.... Appellant.

THE COURT:- The appellant filed Writ Petition No.368 of 2020 challenging e-auction notice dated 28th September 2020 issued by the respondent bank under Rule 8(6) of the SARFAESI Act, 2002.

According to the appellant, the respondent bank did not furnish documents as directed by Central Information Commissioner under the

Right to Information Act. The bank issued number of notices under Section 13(2) of the SARFAESI Act. The respondent bank illegally adjusted the amounts lying to the credit of the respondent to the loan due.

The Learned Judge considering the contentions of the learned counsel for appellant and the materials placed before him dismissed the writ petition holding that appellant has alternative remedy under Section 13(4) of the SARFAESI Act. The Learned Judge has given liberty to the appellant to approach the Tribunal for remedy. The Learned Judge also held that the Court had not decided the case on merits of the proceedings under Sections 13(2) and 13(4) of the SARFAESI Act and it is open to the appellant to raise the same before the Tribunal.

The learned counsel for the appellant raised various grounds alleging irregularities committed by the respondent bank in bringing the mortgaged property for e-auction, non-furnishing the documents and adjusting the amount belonging minor towards the loan amount of appellant's husband, Before this Court, the learned counsel for appellant argued that the bank, instead of adjusting insurance amount, erroneously brought the property for e-auction.

These contentions are not acceptable in view of Section 13(4) of the SARFAESI Act. The respondent bank has initiated proceedings as per the provisions of the SARFAESI Act, which is a self-contained Act. The

Learned Judge has rightly considered Section 13(4) of the SARFAESI Act and dismissed the writ petition. The Learned Judge also gave liberty to the appellant to approach the Tribunal. There is no merit in the appeal. Appeal fails and is dismissed.

(V.M. VELUMANI, J.)

(RAI CHATTOPADHYAY, J.)

s. kumar