

01.04.2024
SSS (11)

**FMAT 94 of 2024
With
CAN 1 of 2024**

**Ratna Roy and Anr.
Vs.
IIFL Home Finance Ltd. (IIFL HFL)**

Mr. Sounak Bhattacharya,
Mr. Raghunath Das
Ms. Monalisa Das,
.....For the Appellants.

Ms. Reshmi Ghosh,
Mr. Ranjit Singh, Advs.
.....For the Respondent.

Having heard learned counsel for the parties, we are in a position to dispose of this appeal, dispensing with all formalities.

We formally admit the appeal.

The fundamental point taken by Mr. Bhattacharya, learned advocate for the appellants in challenging the judgment and order dated 13th March, 2024 passed by the learned court below is that the court has wrongly exercised jurisdiction under Section 9 of the Arbitration and Conciliation Act, 1996, at the instance of the respondent. When proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 had already

been initiated by the respondent, availability of the remedy under the said Act clearly barred the jurisdiction of the civil court, it was submitted.

In the impugned judgment and order, this point is not discussed at all by the learned judge. Although Mr. Bhattacharya on instructions submitted that this point was raised, we are doubtful whether it was raised before the learned judge at the time of hearing of the application. Otherwise, it was likely to have been dealt with.

Be that as it may, since a question going to the root of the jurisdiction of the court is involved, we direct that within two weeks from date, the appellants shall make an appropriate application before the learned court below for review of its impugned judgment and order dated 13th March, 2024, on the above ground raised by the appellants. On such application being made, the learned judge shall deal with it on hearing the parties and dispose of it by a reasoned order within a reasonable period of time.

For a period of three weeks from date, the Receiver or police shall not act in terms of the order dated 13th March, 2024. Thereafter, they may act in terms of the order to be passed by the learned court below. If no application for review as stated above, is made within the stipulated time, the above interim order will automatically stand vacated. This order will be subject to the order that

may be passed by the learned court below in the Section 9 application after review.

The appeal and connected application (CAN 1 of 2024) are disposed of by this order.

[I.P. Mukerji, J]

[Md. Shabbar Rashidi, J]