15th May, 2024
(AK)
86-87

W.P.A 12228 of 2024

Sanjay Saha
Vs.
Reserve Bank of India and others

With

W.P.A 9096 of 2024

Sanjay Saha
Vs.
Reserve Bank of India and another

Mr. Shaunak Ghosh
...for the petitioner.

Mr. Subrata Kumar Sinha
...for the respondent no.2/SBI.

1. Affidavit-of-service filed in court today be kept on record.
2. The petitioner challenges the classification of the petitioner's accounts as Non Performing Asset (NPA).
3. Learned counsel submits that a renewal was apparently granted to the loan of the petitioner without the consent of the petitioner.
4. Subsequently the rate of interest was also increased exorbitantly without the petitioner having consented to the same.
5. It is submitted that due to such reasons, the loan could not be serviced by the petitioner.

6. Learned counsel for the Bank opposes the application on several factual counts and makes serious allegations against the petitioner on the financial front.

7. It is further argued by the Bank that the petitioner's remedy lies at the appropriate stage before the concerned Debts Recovery Tribunal.

8. The petitioner raises, in the present writ petition, several questions requiring factual adjudication.

9. Apart from the fact that the writ court is not the appropriate forum to go into such disputes without evidence, the position of law remains that although the Bank has at the present moment only issued a notice under Section 13(2) of the SARFAESI Act which does not preclude the civil or writ court's jurisdiction, the said measure is only a precursor of subsequent measures being taken under Section 13(4) of the said Act.

10. If the writ court intervenes at the present stage, the same would preempt the Bank's measures under Section 13(4), which are amenable to the jurisdiction of the tribunal.

11. Thus, it would not be prudent at this juncture to intervene for the writ court, since the appropriate remedy, as and when steps are taken under Section 13(4) by the Bank, would be before the appropriate tribunal which would be much more equipped than

the writ court to adjudicate issues of fact as well as law.

12. In such view of the matter, WPA 12228 of 2024 and WPA 9096 of 2024 are disposed of with liberty to the petitioner to approach the concerned tribunal in the event any coercive action is taken under Section 13(4) of the SARFAESI Act by the Bank on the premise of the impugned NPA classification of the petitioner's accounts.

13. It is made clear that the merits of the allegations and counter-allegations between the parties have not been entered into by this court.

14. There will be no order as to costs.

15. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)