

14.08.2024
Sl. No.16(DL)
srm

W.P.A. No. 20536 of 2024

Dhananjoy Kishore Chakraborty & Anr.

Versus

The Punjab National Bank & Anr.

Mr. Shounak Mukhapadhyay,
Ms. Jeenia Rudra

...for the Petitioners.

Mr. Mohit Gupta,
Mr. Kaushik Modak,
Ms. Mousumi Pal

...for the Punjab National Bank.

Affidavit-of-service is taken on record.

The Punjab National Bank (PNB)/secured creditor, proceeded to auction the movable properties which were hypothecated to it as security, by invoking the hypothecation agreement. It appears to the court that the provisions of SARFAESI Act covers hypothecation of the movable property as well.

This Court finds that as the SARFAESI proceeding was initiated by the bank and the possession of the movables and immovable (both secured against the loan), were taken by the bank on the basis of the SARFAESI Act, the petitioners' challenge to the sale notice will also be before the Debts Recovery Tribunal, in the opinion of the court.

The petitioners are granted liberty to challenge the sale notice in accordance with law before the Debts Recovery Tribunal within a week.

The sale may proceed, but no sale certificate will be issued. The sale will be subject to the decision of the Tribunal.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)