

OD - 39

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

ORIGINAL SIDE

APOT/35/2024
IA No.GA/1/2024

OPT SOLUTIONZ MARKETING (OPC)
PRIVATE LIMITED AND ANR

VS

YES BANK AND ORS

BEFORE :

THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM

And

THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA

Date : 31st January, 2024

Appearance :

Mr.Anirban Ray, Adv.

Mr. Soumabha Ghose, Adv.

Ms.Tiana Bhattacharya, Adv.

Mr.Soumalya Ganguli, Adv.

..for Sandip Bose

Mr.Anubhav Sinha, Adv.

Mr.Ataur Rahaman, Adv.

Mr.Javed Majid, Adv.

Mrs. Debjani Roy, Adv.

Mrs. Sagufa Naaz, Adv.

..for the appellant.

Mr.Sayak Ranjan Ganguly, Adv.

Mr.Pratip Mukherjee, Adv.

Mr.Indranil Majumdar, Adv.

...for the respondent.

The Court : This intra-Court appeal is directed against the order dated 8th January, 2024 in WPO No.1627 of 2023 challenging in the writ petition by the appellant was to the notices issued under Section 13(2) and 13(4) of the SARFAESI Act. The learned Writ Court, in our view, rightly took note of the decision of the Hon'ble Court and held that the writ petition was not maintainable as the appellant has

effective alternative remedy under Section 17 of the Act. Thus, we do not find any ground to interfere with the order passed by the learned Single Bench. Hence, the appeal is dismissed. However, dismissal of the appeal will not be a bar for the appellant to pursue the matter before the Debts Recovery Tribunal, if so advised.

If the appellant files an application under Section 17 of the Debts Recovery Tribunal, the period from the date on which the writ petition was filed till the receipt of the server copy of this judgment and order shall be excluding for the purpose of computing limitation for filing an application under Section 17 of the Act and not for any other purpose.

Mr. Anirban Ray, learned counsel appearing for Sandip Bose seeks to intervene in the proceeding stating that Mr. Bose is the purchase of the property and he was unaware about the action being taken by the respondent/Yes Bank against the appellant and Mr. Bose has already moved an application before the learned Tribunal and the application appears to have been adjourned by the learned Tribunal.

Since we have dismissed the intra-Court appeal filed by the appellant, we grant liberty to the intervenor to mention before the learned Tribunal about this judgment and order so that the learned Tribunal would be able to assign an earlier date for hearing the application filed by the intervenor.

In view of the above, the connected application stands closed.

(T.S. SIVAGNANAM)
(CHIEF JUSTICE)

(SUPRATIM BHATTACHARYA, J.)

S.Das/