IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29827 of 2024

Odisha Gramya Bank & anr. .... ***Petitioners***

Mr. T. Sahu, Adv.

-versus-

Chairman, Permanent LokAdalat & ors. .... ***Opposite Parties***

CORAM: JUSTICE SANJAY KUMAR MISHRA

ORDER
07.12.2024

Order No.

01. This matter is taken up through hybrid mode.

2. This writ petition has been preferred by the Petitioners-Bank challenging the order No.11 dated 12.07.2024 passed in PLA Case No.70 of 2023, vide which the PLA Court, Khordha at Bhubaneswar has restrained the Petitioner (Respondent-Bank before the Court below) to proceed further in terms of the provisions of SRFAESI Act against the present Opposite Party (Appellant before the Court below) till finalization of the said PLA Case.

3. Learned Counsel for the Petitioners, drawing attention of this Court to the provisions enshrined under section 34 & 35 of the Securitisation and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, shortly, 'SRFAESI Act', submits that the PLA Court has no jurisdiction to entertain such an application. Still it entertained the complaint made by the present Opposite Party and has restrained the Bank, contrary to the legal provisions so also the settled position of law from proceeding further in terms of the SRFAESI Act and the impugned order being illegal, deserves to be set aside.

4. As is ascertained from the impugned order, being noticed and despite giving opportunity to file Objection, the Petitioners-Bank did not file any Objection on the plea of non-supply of any information. As it is further ascertained from the impugned order, it was also not brought to the notice of the PLA Court regarding the legal provisions enshrined under section 34 & 35 of the SRFAESI Act. As a consequence thereof, such an order has been passed by the Court below. Being relevant, provisions under section 34 & 35 of the SRFAESI Act are reproduced below:-

> *"**34**. **Civil Court not to have jurisdiction**- No civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or*

under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993).

Objects and Reasons-Clause 34.-This clause provides that no civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under the proposed legislation to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the proposed legislation or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

35. The provisions of this Act to override other laws. *-The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.*

Objects and Reasons- Clause 35.-This clause provides that the provisions of the proposed legislation shall override other laws. It provides that the provisions of the proposed legislation shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law".

5. Further, a query being made, learned Counsel for the Petitioners submits, no application was moved by the Petitioners-Bank before the Court below for recalling of the said order so also questioning the maintainability of the said proceeding till date.

6. In view of such admission made by the learned Counsel for the Petitioners, the writ petition stands disposed of at the stage of admission, giving liberty to the Petitioners-Bank to move appropriate application in PLA Case No.70 of 2023 for recall of the impugned order so also application regarding maintainability of the said proceedings, as urged before this Court.

7. If such applications are moved, the Court below shall do well to deal with and dispose of the said applications at the earliest, giving due opportunity to the parties.

8. Urgent certified copy of this order be granted on proper application as per rules.

(S. K. MISHRA)
JUDGE

Banita

Signature Not Verified
Digitally Signed
Signed by: BANITA PRIYADARSHINI PALEI
Designation: SR. STENOGRAPHER
Reason: AUTHENTICATION
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 09-Dec-2024 10:44:33