Court No. - 7

Case :- MATTERS UNDER ARTICLE 227 No. - 5901 of 2024

Petitioner :- M/S Ascon Dairy Pvt. Ltd. Thru. Director Dinesh Tiwari And 2 Others
Respondent :- The Debts Recovery Tribunal,Lko. Thru. Registrar And Another
Counsel for Petitioner :- Sanjeev Singh,Ankit Yadav
Counsel for Respondent :- Anurag Srivastava

Hon'ble Pankaj Bhatia,J.

1. Heard the counsel for the petitioner. No one appears for the respondents despite notice.

2. The present petition has been filed challenging the order dated 28.11.2024 whereby the DRAT has held that against an order under section 14 of the SARFAESI Act, no remedy is available before the DRAT in view of the bar created by Section 14(3) of the SARFAESI Act.

3. The said view prima-facie is wrong on the face of it, more so, when read in the light of the judgment of the Supreme Court in the case of **Kanaiyalal Lalchand Sachdev and others vs. State of Maharashtra and others; reported in 2011 (2) SCC 782.**

4. Although prima-facie, this court finds with the view taken by the DRAT is wrong, however, in view of the subsequent judgment of the Supreme Court in the case of **CELIR LLP vs. Bafna Motors (Mumbai) Private Limited and others; 2024 (2) SCC 1,** the scope of interference under Article 227 of the Constitution of India is very limited.

5. In view thereof, the writ petition is ***disposed off*** permitting the petitioner to avail the remedy of appeal before the DRAT under section 18 of the Act.

6. As the appeal would be against the administrative order, prima-facie no deposit is required except the court fees.

7. In case such an appeal is filed along with the interim relief application, the interim application shall be considered within a period of three weeks by the DRAT. Till the decision on the interim application, the parties shall maintain status-quo with regard to the possession.

8. In case the appeal is not filed within the fortnight from today, this order shall come to an end.

Order Date :- 6.12.2024

VNP/-

Digitally signed by :-
VISHVANATH PRASAD SHUKLA
High Court of Judicature at Allahabad,
Lucknow Bench