

16.04.2025
Item No.9
Ct. No.01
RP/SM

FMA 397 of 2025
with
IA NO: CAN/1/2025

DEBABRATA MONDAL AND ANR.
VS.
SYNDICATE BANK AND ORS.

Mr. Nikhil Kr. Gupta, Adv.
Ms. Ruma Das Maity, Adv.

....For the Appellants

Mr. Touseef Ahmed Khan, Adv.
Ms. Tuhina Parvin, Adv.

....For the State-Respondent

Ms. Sreemoyee Mitra, Adv.
Mr. Archishman Singh, Adv.

....For the Bank

1. Affidavit-of-service filed by the appellants is taken on record.
2. This intra-court appeal is directed against the order dated 10th January, 2025, by which writ petition was filed by the appellants challenging the order passed by the Recovery Officer, Kolkata Debt Recovery Tribunal No.2 dated 30th March, 2022, was dismissed. Admittedly, there is a procedure available under the Recovery of Debt and Bankruptcy Act, 1993, for any person aggrieved by an order passed by the Tribunal under the provisions of the said Act. The appellants' claim is that they are the rightful owners of the property in question and the mortgage which is alleged to have been created by a borrower in the year 1998 is not for the entire extent but for a meager extent and the respondent-bank is unable to

identify the property which is subject-matter of mortgage for which they have approached the Block Land and Land Revenue Officer to depute an Amin to provide the record of the documents of the related property and demarcate, identify the property in presence of the officials of the bank and the Receiver. As long as the order passed by the Recovery Officer has not been questioned in a manner known to law, the question of entertaining a writ petition challenging such an order would not be maintainable. Therefore, the learned Single Bench was fully justified in not granting the relief sought for in dismissing the writ petition.

3. Hence, we find no ground to interfere with the impugned order and the appeal fails. Accordingly, the appeal along with the application is dismissed.
4. However, the dismissal of this appeal will not prejudice the rights of the appellants to invoke other remedies that may be available under the provisions of Recovery of Debt and Bankruptcy Act, if so advised.
5. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

[T.S. SIVAGNANAM]
CHIEF JUSTICE

[CHAITALI CHATTERJEE (DAS), J.]