

01.08.2025.
Item No. 8.
Court No. 13
sp

M.A.T. No. 425 of 2023
With
CAN 1 of 2023

State Bank of India & Anr.
Versus
Sri Tamal Dutta & Ors.

Mr. Anirban Pramanick,
Mr. Punarbasu Nath.

...for the appellants.

Mr. Arup Kumar Chatterjee.

..for the respondents.

Mr. Vivekananda Kundu.

..applicant in person.

1. The appeal is directed against order dated 24th February, 2023 passed by a Single Bench of this Court.

2. The writ petition was filed by a participant in and auction sale conducted by the Bank under Section 13(4) of the SARFAESI Act, 2002. The Single Bench permitted the writ petitioner to participate in the auction and the amount of Rs. 38,00,000/- deposited by the auction purchaser was directed to be taken into consideration by the Bank, in the order dated 24th February, 2023. The learned Single Bench appears to have ignored that the principal borrower was not made a party respondent to the proceeding.

3. In any event, any grievance with regard to any sale conducted by the Bank under the provisions of the

SARFAESI Act, 2002 are required to be challenged under Section 17 of the SARFAESI Act, 2002 by any aggrieved person before the Debt Recovery Tribunal.

4. The applicant before this Court who seeks to intervene in MAT 425 of 2023 filed by the Bank is the borrower. His application for addition of party was rejected by a Co-ordinate Bench on the earlier date.

5. This Court is of the clear and unequivocal view that a borrower is vitally interested in any proceeding with regard to sale of his property which is the secured asset.

6. In view of the above, the applicant, Mr. Vivekananda Kundu, be added as a party respondent to the instant appeal.

7. It is submitted by the learned counsel for the Bank that they had filed the appeal being aggrieved by the jurisdiction exercised the Single Bench under Article 226 of the Constitution of India notwithstanding availability of efficacious alternative remedy under Section 17 of the SARFAESI Act, 2002.

8. The ground urged by the counsel for the Bank, valid and sustainable in the law.

9. The Single Bench as already stated hereinabove, could not have entertained the writ petition. The appeal has even otherwise become infructuous since the sale could not materialize.

10. The Bank claims to have forfeited the earnest money deposited by the writ petitioner/purchaser.

11. In view of the above, MAT 425 of 2023 is allowed and the order of the Single Bench is set aside.

12. The Bank has already instituted proceedings under Section 19 of the RDB Act, 1993. The added respondent/borrower appearing in person may urge all his grievances against the Bank in such application by filing appropriate written statement within a period of one month from date, if not already filed.

13. In the event of any grievance with regard to valuation or any sale process undertaken by the Bank of the secured asset, the borrower/auction purchaser may approach the Debt Recovery Tribunal under Section 17 of the SARFAESI Act, 2002, subject to the Limitation prescribed therefor.

14. With the aforesaid observations, MAT 425 of 2023 is hereby disposed of.

15. Consequently, CAN 1 of 2023 shall also stand disposed of.

16. There shall be no order as to costs.

17. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)