

16.07.2025.
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Ct.No.7.
sdas

WPA 8531 of 2022

Shankar Ranjan Das
Vs.
Union of India & Ors.

Mr. Dilip Kumar Maity
Mr. Sandip Maity
.....for the petitioner

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.

2. The present writ petition has been preferred primarily praying for the following relief:

“(a) A Writ in the nature of Mandamus commanding the respondent authorities, particularly the respondent No. 2 herein to dispose of the rejoinder dated 22.04.2022 of the petitioner treating Under Section 13(3A) of the Securitisation and Reconstruction of Financial Assets of Security Interest Act, 2002, within a reasonable time.”

3. Mr. Maity, learned Advocate appearing for the petitioner, submits that the petitioner and Private Respondent No. 6 were granted a loan secured by creating collateral over certain agricultural lands. Due to their failure to repay the loan, proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act, 2002') were initiated against the petitioner.

4. He further submits that the Bank issued a notice under Section 13(2) of the SARFAESI Act, 2002, followed by a notice under Section 13(4) of the said Act. Subsequently, possession of the mortgaged land was taken by invoking the provisions of Section 14 of the SARFAESI Act, 2002.

5. Challenging this action, the petitioner approached the Debt Recovery Tribunal (hereinafter referred to as the 'DRT'). However, the proceedings initiated by the petitioner before the DRT were concluded by an order dismissing the appeal filed by the petitioner and Private Respondent No. 6.

6. However, Respondent No. 2, the Asset Reconstruction Company (ARC), has once again issued a notice under Section 13(2) of the SARFAESI Act, 2002. Upon receipt of the notice, the petitioner submitted a rejoinder under Section 13(3A) of the Act. Despite this, Respondent No. 2 has failed to consider the rejoinder, compelling the petitioner to file the present writ petition.

7. Despite service, the respondents are unrepresented.

8. As noted earlier, the petitioner and Private Respondent No. 6 obtained a loan from the Bank by creating collateral security over certain land. However, both the petitioner and Private Respondent No. 6 failed to repay the loan, leading to the initiation of

proceedings under the SARFAESI Act, 2002. As previously stated, the Bank acted under Section 13(4) of the SARFAESI Act, 2002, and took possession of the mortgaged property in accordance with the provisions of Section 14 of the said Act. Subsequently, the petitioner approached the Debt Recovery Tribunal (DRT), but the proceedings before the DRT were ultimately terminated by a final order.

9. However, subsequently, upon receipt of a fresh notice under Section 13(2) of the SARFAESI Act, 2002 from respondent no. 2, the petitioner submitted a representation under Section 13(3A) of the Act.

10. Admittedly, the Debt Recovery Tribunal (DRT) has duly considered the disputes and disposed of the appeal filed by the petitioner and Private Respondent No. 6 under Section 17 of the SARFAESI Act, 2002. Accordingly, the petitioner is at liberty to prefer an appeal before the Debt Recovery Appellate Tribunal in accordance with law. The petitioner is also free to bring any subsequent developments to the notice of the Debt Recovery Appellate Tribunal.

11. As a statutory remedy is available under the Debt Recovery Tribunal and the SARFAESI Act, 2002, and applying the principles laid down by the Supreme Court in *United Bank of India v. Satyawati Tondon & Ors.*, (2010) 8 SCC 110, which held that the High Court should exercise restraint in staying the recovery process

initiated by a bank or financial institution where an efficacious alternative remedy exists, this Court is, therefore, not inclined to interfere in the present writ petition.

12. With this observation, the writ petition is, thus, dismissed. However, there will be no order as to costs.

(Partha Sarathi Chatterjee, J.)