

Item- 2. 30-07-2025

sg Ct. 16

**FMA 929 of 2025
CAN 1 of 2025
CAN 2 of 2025**

HDFC Bank Limited
Versus
Bhanu Ghosh & Ors.

Mr. Siddhartha Banerjee
Ms. Soni Ojha

...for the appellant/petitioner

Mr. S. Pal Choudhury
Mr. B.N. Ghosal

...for the respondents

1. Having regard to nature of the controversy and the order passed by the coordinate Bench on 18th June, 2025, we feel that the appeal and the connected applications can be disposed of by confirming the order dated 18th June, 2025 till the injunction application is heard on merit.
2. The learned Counsel appearing for the appellant bank has submitted that the decision under Section 13(3)(A) could not be taken as they have not responded to the notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act').
3. In any event if the plaintiff is aggrieved by any action taken under Section 13 of the SARFAESI Act, there is a remedy available under the SARFAESI Act. The said Act is self-contained statute.
4. The pendency of the suit before the learned Judge, VII Bench, City Civil Court at Calcutta, shall not stand in the way of a plaintiff to respond to the notice indicating all points which would absolve the plaintiff from any obligation

to be discharged under the SARFAESI Act.

5. Since we give this opportunity to the plaintiff to respond to such notices within a period of two weeks from date, no coercive action shall be taken by the bank till a decision is taken by the bank on the representation to be made by the plaintiff in this regard.
6. In the event no such representation is made by the plaintiff in terms of this order, it would be open for the bank to proceed in accordance with law.
7. After the entire process is concluded, the matter may be listed before the learned Judge, VII Bench, City Civil Court for further consideration of the injunction application and leave may be given to the plaintiff to amend the plaint depending upon the decision to be taken by the HDFC Bank and the issue of maintainability of the suit shall be decided first by the learned Trial Court before deciding the injunction application on merit.
8. With the aforesaid direction, the appeal and the connected applications are disposed of. However, there shall be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)