D/L 13
12.08.2025
Court No.14
PRADIP

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 15096 of 2024

Sanjay Ghosh
Vs.
State Bank of India & Ors.

Mr. Suddhasatva Banerjee
Mr. Subhankar Chakraborty
Mr. Saptarshi Bhattacharjee
Ms. Sayani Gupta
Mr. Atindra Rai
...for the Petitioner.

Ms. Deblina Lahiri
Mr. Mrinmoy Chatterjee
...for SBI.

Mr. Debabrata Das
Mr. A. Sarkar
Mr. Pratik Acharjee
...for the Respondent no.3.

1. Supplementary affidavit filed on behalf of the petitioner is taken on record.
2. Learned counsel representing the petitioner stresses upon the fact that the petitioner is an MSME and the bank being aware of the said fact ought to have taken steps for revival of the stressed unit and ought not to have declared the account of the petitioner as NPA in complete violation of the guidelines of the Reserve Bank of India relating to Micro, Small and Medium Enterprises.
3. Learned advocate representing the petitioner stresses on the ratio laid down by the Hon'ble Division Bench of this Court in the matter of **State Bank of India Vs. SRC Steels Pvt. Ltd.** reported in **2014 SCC OnLine Cal 20626** and in the judgment delivered by the Hon'ble

Supreme Court of India in the matter of **Pro Knits Vs. Board of Directors of Canara Bank & Ors.** reported in **(2024) 10 Supreme Court Cases 292** wherein the Court held that it is mandatory on the part of the banks to follow the instructions/directions issued by the Central Government and the Reserve Bank of India with regard to the framework for revival and rehabilitation of MSMEs.

4. The Court also held that it would be equally incumbent on the part of the MSME concerned to be vigilant enough to follow the process laid down under the framework and bring to the notice of the banks concerned, by producing authenticated and verifiable documents/materials to show its eligibility to get the benefit of the said framework.
5. Specific stand is that the loan amount was granted by the bank taking note of the fact that the petitioner is an MSME. The bank ought to have considered the status of the petitioner and thereafter taken steps in the matter.
6. Learned advocate representing the bank submits that the petitioner is trying to highlight the issue of MSME as an afterthought. In the entire writ petition there is no mention of the aforesaid fact. The issue of the unit being an MSME entitled to certain benefits under the RBI guidelines has also not been raised before the Debts Recovery Tribunal.
7. Learned advocate representing the bank relies on the judgment delivered by the Hon'ble Supreme Court of India in the matter of **Shri Shri Swami Samarth Construction & Finance Solution & Anr. Vs. Board of Directions of NKGSB Co-Op. Bank Ltd. & Ors**. reported

in **2025 SCC OnLine SC 1566** which took note of the judgment delivered in the matter of Pro Knits (supra).

8. It has been brought to the notice of the Court that the bank is taking physical possession of the secured asset today.

9. Upon hearing the parties, it appears that the petitioner has already approached the learned Debts Recovery Tribunal under the SARFAESI Act highlighting his grievances. On being unsuccessful, the petitioner has directly approached this Court under Article 226 of the Constitution of India.

10. The order passed by the learned Debts Recovery Tribunal is appealable before the appellate forum. Without entering into the merit of the claim and the counter claim of the parties at this stage, it is observed that it will be open for the petitioner to approach the appellate forum in accordance with law, if so advised.

11. In view of the above, no relief can be granted to the petitioner in the instant writ petition. The writ petition fails and is hereby dismissed.

12. Since the writ petition is being dismissed, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all the requisite formalities.

(Amrita Sinha, J.)