IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Prasenjit Biswas

M.A.T. 1019 of 2025
With
CAN 1 of 2025

Vaidhai Agarwal @ Sonu Kumari Kedia
vs.
The Indian Bank (Erstwhile Allahabad Bank) & Ors.
With
M.A.T. 1020 of 2025
With
CAN 1 of 2025
Sarva Mangalam Gajanan Steel (P) Ltd.
Vs.
Vaidhai Agarwal @ Sonu Kumari Kedia

For the Appellant in M.A.T. 1019 of 2025 : Mr. Sumitava Chakraborty

For the Appellant in M.A.T. 1020 of 2025 : Mr. Sudip Deb, Sr. Adv.,
Mr. Biswaroop Bhattacharya
Ms. Ipsita Ghosh

For the Respondent No. 3 : Mr. Shiv Mangal Singh

For the Respondent Bank : Mr. Sauradeep Dutta
Ms. Himadree Ghosh

For the Respondent Nos. 5, 7 to 9 : Mr. Subhrangshu Panda
Mr. Snehasish Dey

For the State in M.A.T. 1019 of 2025 : Sk. Md. Galib, Sr. Govt. Adv., Mr. Abu siddiqui Mallik

For the State in M.A.T. 1020 of 2025 : Mr. Washim Ahmed Ms. Sujata Mukherjee

Heard & Judgment on : August 7, 2025

DEBANGSU BASAK, J.:-

1. Two appeals are taken up for analogous hearing as both emanate out of the judgment and order dated July 8, 2025 passed in W.P.A. 15135 of 2025.
2. M.A.T. 1019 of 2025 is at the behest of an heir and legal representative of a guarantor. The appellant is to be treated as a guarantor of the credit facilities that the borrower which is the appellant in M.A.T. 1020 of 2025 enjoyed from the bank.
3. M.A.T. 1020 of 2025 is at the behest of borrower.
4. Prayer for adjournment made on behalf of the appellant in M.A.T. 1019 of 2025 is considered and rejected since the borrower is represented before the Court. Borrower is a family concern belonging to family members of the appellant in M.A.T. 1019 of 2025. Borrower is not setting up a claim adverse to the appellant in M.A.T. 1019 of 2025. There is also an issue of limitation involved as the right of the private parties to approach the Debts Recovery Tribunal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 may get affected.

5. Learned senior advocate appearing for the borrower submits that, the borrower came to learn about a measure taken under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 on July 2, 2025 from to a notice dated June 26, 2025 regarding sale of an immovable property. He submits that, the bank made a misrepresentation before the learned Court in *seisin* of the earlier round of litigation where the bank claimed that Sale Certificate was not issued.
6. Learned senior advocate appearing for the borrower refers to the Sale Certificate dated May 9, 2014 issued by the bank. He draws the attention of the Court to the contents of such Sale Certificate. He submits that, Sale Certificate is not in consonance with the Security Interest (Enforcement) Rules, 2002. He submits that, the bank wrongfully and illegally included the words "The scheduled property was sold on "As is where is basis", "As is what is basis" and "whatever there is basis".
7. Learned senior advocate appearing on behalf of the borrower submits that in view of the fact that the Coordinate Bench passed an interim protection and in view of the fact that his client is ready and willing to approach the Debts Recovery Tribunal under the provisions of the Act of 2002, the interim protection granted by the Coordinate Bench should be extended.
8. Learned advocate appearing for the bank submits that the interim order granted by the Coordinate Bench was on the basis of the undertaking given by him. He submits on instructions that the bank sold the immovable property

by a Sale Certificate dated May 9, 2024. He relies upon **2014 (6) SCC 1** (**Harshad Govardhan Sondagar vs. International Assets Reconstruction Company Limited & Ors.**) and **2025 SCC Online SC 1443 (PNB Housing Finance Limited vs. Sh. Manoj Saha)** to contend that the writ petition should not be entertained in view of the fact that both the appellants possess adequate alternative statutory remedy.

9. Learned advocate appearing for the bank draws the attention of the Court to the conduct of the two appellants. He submits that, the guarantor appellant filed a proceeding under Section 17 of the Act of 2002 before the Debts Recovery Tribunal being S.A. 428 of 2022. In such proceeding, initially, the guarantor appellant obtained an interim relief. Thereafter, such guarantor appellant did not proceed with S.A. 428 of 2022. Consequently, the bank put up the property for sale and sold the same. He contends that the bank did not act in breach of the provision of the Security Interest (Enforcement) Rules, 2002 or the Act of 2002 in conducting the sale. The Sale Certificate cannot be impugned in the manner as contended on behalf of the two appellants.

10. Relying upon **2023 INSC 838 (CELIR LLP vs. Bafna Motors (Mumbai) Pvt. Ltd. & Ors.)**, learned advocate appearing for the bank submits that after issuance of the Sale Certificate, the same cannot be challenged.

11. In the writ petition filed, the guarantor appellant assailed the measures taken by the bank under Section 13(4) of Act of 2002. Section 17 of the Act of 2002

allows an appeal to be filed by any person aggrieved by a measure taken under Section 13(4) of the Act of 2002.

12. Supreme Court in **Harshad Govardhan and Shri Manoj** (supra) are of the view that a writ petition should not be entertained in relation to a measure taken under Section 13(4) of the Act of 2002 in view of the availability of statutory alternative remedy under Section 17 of the Act of 2002.

13. In the facts and circumstances of the present case, learned Single Judge dismissed the writ petition filed at the behest of the guarantor appellant, noting the existence of statutory alternative remedy. The Coordinate Bench noting the undertaking given by the learned advocate for the bank extended interim protection to the two appellants before us.

14. **Bafna Motors** (supra) should not be construed to mean that a sale conducted by a bank under the provisions of the Act of 2002 cannot be interfered with at all. In fact, in paragraph 83 of such judgment, it notices that auction confirmed can be interfered with *albeit* on limited grounds.

15. Whether or not, adequate ground exists for interference of a public sale such as the one conducted in the facts and circumstances of the present case need not be entered into by a Writ Court in view of the binding authorities of **Harshad Govardhan and Shri Manoj** (supra).

16. In view of the existence of the statutory alternative remedy available to both the appellants before us, we do not find any merit in the two appeals.

17. **M.A.T. 1019 of 2025** and **M.A.T. 1020 of 2025** and the connected applications of both the appeals are dismissed without any order as to costs.

18. Interim orders stand vacated.

(Debangsu Basak, J.)

19. I agree

S.D.

(**Prasenjit Biswas, J.**)