IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

M.A.T. 1423 of 2025

Biswajit Dey
vs.
The Union of India & Ors.
With
CAN 1 of 2025
CAN 2 of 2025

For the Appellant	: Mr. Samim Ahammed Ms. Ambiya Khatun Mr. Asif Iqbal Baidya Ms. Saloni Bhattacharya Md. Nasirul Haque
For the Respondent Nos. 2 & 3	: Mr. Soumalya Ganguli
For the Union of India	: Mr. Sujit Bhunia,
Heard & Judgment on	: **September 3, 2025**

Debangsu Basak, J.:-

1. The appeal is at the behest of the writ petitioner and directed against an order dated July 28, 2025 passed in W.P.A. 14348 of 2025.

2. Learned advocate appearing for the appellant submits that, the appellant did not obtain any loan from Andhra Bank. He submits that, Andhra Bank is wrongfully proceeding against the immovable property of the appellant. Such property was never mortgaged by depositing two title deeds with Andhra Bank. The original of the title deed is with the appellant. He produces a document claiming to be the original title deed in respect of the immovable property concerned.

3. Learned advocate appearing for the appellant submits that, the appellant is no longer pressing any of the reliefs as prayed for in the writ petition with regard to the notice under the Security Interest (Enforcement) Rules, 2002. The appellant is also not seeking any relief as prayed for in the writ petition. However, the appellant is seeking a direction upon an Investigating Agency to consider the two title deeds of the immovable property and take a decision thereon.

4. In support of the contention that the Writ Court can mould reliefs notwithstanding no prayer to such effect being made, learned advocate appearing for the appellant relies upon **2025 SCC OnLine 368 (M.S. Sanjay vs. Indian Bank & Ors.)**.

5. Learned advocate appearing for the appellant submits that, since the immovable property concerned was never mortgaged with the Andhra

Bank, the writ petition is maintainable. He relies upon a Division Bench order dated August 21, 2025 passed in **M.A.T. 1497 of 2017 (Sonali Mukherjee & Anr. Vs. Union of India & Ors.)**. He submits that, the decision of the Division Bench in **Sonali Mukherjee & Anr**. (supra) was challenged before the Supreme Court. The Special Leave Petition was dismissed by an order dated January 25, 2024.

6. Learned advocate appearing for the bank submits that original title deeds in respect of the immovable property concerned is with the bank. He produces the original title deed in Court. He submits that, Andhra Bank filed a proceeding under Section 19 of the Recovery of Debts due to Banks and Bankruptcy Act, 1993 being O.A. No. 84 of 2020. The appellant is the party respondent in such proceeding.

7. Appellant initially approached the Writ Court assailing primarily a notice for sale issued under the Security Interest (Enforcement) Rules, 2002. Such writ petition was dismissed by the impugned order finding that the appellant possesses statutory alternative remedy.

8. As submitted on behalf of the appellant and as noted while recording the submission of the appellant that the appellant is not pressing any of the prayers made in the writ petition, appellant is seeking a direction for investigation with regard to the genuinity of the two title deeds.

9. We are not minded to grant such relief to the appellant for the reasons recorded herein.

10. Firstly, there is a proceeding under Section 19 of the Act of 1993 pending before a Debts Recovery Tribunal in which the appellant is a party respondent. Issue of the appellant executing documents with regard to the credit facilities which the appellant apparently enjoyed from bank, is an issue in such proceeding. Therefore, the appellant can raise the issue of genuinity of either his signature or creation of mortgage by deposit of two title deeds in such forum. Therefore, the appellant is not remediless.

11. Secondly, in the **M.S. Sanjay** (supra), Supreme Court noted that a High Court is not powerless in molding the reliefs. In the facts and circumstances of the present case, since the appellant before us possesses an alternative remedy and since the issue to be raised as to the genuinity of the creation of mortgage involves mixed question of fact of law, it would be appropriate that the appellant is allowed to raise such issue, if so advised, in the proceeding pending before the Debts Recovery Tribunal under the Act of 1993.

12. In **Sonali Mukherjee & Anr**. (supra), there were two banks claiming right over an immovable property concerned. It is in such context that **Sonali Mukherjee & Anr**. (supra) was rendered. Supreme Court

imposed interest exercising powers under Article 142 of the Constitution of India. Facts scenario obtaining in the present case are different than those obtaining in **Sonali Mukherjee & Anr**. (supra).

13. Learned single Judge dismissed the writ petition after finding that the bank already initiated proceedings under the SARFAESI Act, 2002.
14. In view of the discussions above, we find no merit in the present appeal.
15. **M.A.T. 1423 of 2025** and the applications being CAN 1 of 2025 and CAN 2 of 2025 are **dismissed** without any order as to costs.
16. At this stage, learned advocate appearing for the appellant seeks a copy of the Section 19 proceeding filed before the learned Tribunal. It is placed on record that the advocate on record of the bank has served a copy of the Section 19 proceeding to the advocate on record of the appellant in Court.

(Debangsu Basak, J.)

17. I agree

S.D. (**Md. Shabbar Rashidi, J.**)