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25.9.2025
Ct. No. 1
SB

RVW 275 of 2025
CAN 1 of 2025 (Section 5)
CAN 2 of 2025 (Injunction)

Nirmal Kanti Chowdhury

Vs.

State Bank of India, Zonal Officer, Kolkata RBC & Ors.

Mr. Saurabh Guhathakurata

Mr. Subit Majumdar

Ms. Tanuka Basu

Mr. Abhratanu Sarkar ...for the Review Applicant

CAN 1 of 2025 (Section 5)

1. In spite of service, the respondents are not represented.
2. The report of the stamp reporter is incorrect.
3. There is a delay of 736 days in filing this application for review.
4. We are satisfied with the explanation offered for not being able to file this application for review within the period of limitation. The delay of 736 days is condoned.
5. Accordingly, the application for condonation of delay is allowed and disposed of.

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6. The applicant has filed this application for review of an order dated 27.7.2023. The said order was passed in an intra-court appeal directed against the order dated 18.4.2023 in WPA 7941 of 2023 in which the applicant has prayed for a declaration that the notice issued under Section 13(4) of the SARFAESI Act, 2002 is without jurisdiction. In dismissing the appeal the co-ordinate Bench presided over by Hon'ble Mr. T.S. Sivagnanam, the then Chief Justice of this Court has considered the issue raised by the appellant with regard to

the measures being taken against the property of the appellant – applicant on the ground that the petitioner had purchased the property free from all encumbrances and if it transpired that subsequent to the sale the mortgage was created by the borrower, it is fraudulent and cannot be enforced against the appellant.

7. In the review petition, it is being argued that the description of the schedule property in the deed of mortgage is different from the schedule of the property is described in the sale deed. However, as rightly pointed out by the co-ordinate Bench in the order dated 27.7.2023, if any measure is taken in terms of Section 13(4) of the SARFAESI Act, 2002 any person aggrieved by any such measure would be entitled to take out an application before the Debt Recovery Tribunal having jurisdiction within 45 days from the date on which such measure has been taken. There is no change in circumstances for which the said order is required to be reviewed. Moreover, there is no error apparent on the face of the record.
8. On such consideration, we are not inclined to review the order dated 27.7.2023.
9. The review application and the application being CAN 2 of 2025 are dismissed.
10. This order shall not prevent the applicant from taking appropriate steps before the Debt Recovery Tribunal.

[Soumen Sen, C.J. (Acting)]

(Hiranmay Bhattacharyya, J)