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WPA No. 25080 of 2022

Prodyut Ray
Vs.
Union of India & Ors.

Mr. Barun Ghosh
Mr. Jayanta Mitra
.....for the petitioner

Mr. Shiv Mangal Singh
..... for the respondents no. 2 & 3

Challenging the e-auction notice issued by the secured creditor/bank in connection with an auction conducted for recovery of its dues from the petitioner, the present writ petition has been preferred.

Due to the petitioner's failure to repay the loan obtained from the bank, the bank proceeded to recover the same by initiating an auction under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, the "SARFAESI Act"). A notice under Section 13(4) of the SARFAESI Act was issued, and possession of the secured asset was taken following the procedure prescribed under Section 14 of the SARFAESI Act.

Thereafter, the secured creditor initiated steps to sell the property through auction, whereupon the present writ petition has been filed challenging the said auction notice. It is, however, well-settled that the remedy of the petitioner lies before the Debt Recovery Tribunal, and since the petitioner has not availed

such efficacious alternative remedy, the writ petition is not maintainable. In *United Bank of India v. Satyawati Tondon & Ors.*, (2010) 8 SCC 110, the Hon'ble Supreme Court deprecated the practice of entertaining writ petitions challenging the action of the secured creditor in recovery of dues without exhausting the statutory remedy available under law. The principle enunciated in *Satyawati Tondon* (supra) has been consistently reiterated by the Hon'ble Supreme Court, including in *Varimadugu Obi Reddy v. B. Sreenivasulu*, (2023) 2 SCC 168

Thus, applying the principles laid down in those judgments, it is held that the present writ petition is not maintainable and is accordingly dismissed.

However, it is clarified that this order shall not preclude the petitioner from approaching the appropriate forum in accordance with law to have his grievances redressed.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)