

2111
2025
FRIDAY

Court : MB-24
Item : AD-3&4
Status : DO
ID : 266312
AR : NANDY

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 24293 OF 2025
(JULIET GHOSH VS. UNION OF INDIA & ORS.)
WITH
WPA 25981 OF 2025
(JULIET GHOSH VS. UNION OF INDIA & ORS.)

MR. DILIP KUMAR SAMANTA, ADVOCATE
MR. BISWAPRIYA SAMANTA, ADVOCATE
.....for the Petitioner
MR. JOYDEB BRAHMACHARI, ADVOCATE
MR. UTTAM KUMAR BHATTACHARYA, ADVOCATE
MR. KAUSTUV MISHRA, ADVOCATE
.....for the Indian Bank
MR. BISWAJIT MAITY, ADVOCATE
.....for the Union of India

1. Affidavit of service, as filed, be kept with the record.
2. These two writ-petitions have been filed by the petitioner challenging the acts of commission and/or omission of the Bank. WPA 24293 of 2025 challenges the notice under Section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, the said Act). WPA 25981 of 2025 challenges the sale notice issued on 07.11.2025, during the pendency of the first writ-petition i.e. WPA 24293 of 2025.
3. Mr. Samanta, learned Advocate representing the petitioner has raised three points to assail the entire act of the Bank. These points may be summarized as under:-
 - a) *In violation of the master circulars/guidelines of the Reserve Bank of India, the Bank has not handed over the copy of the loan agreement to the petitioner;*
 - b) *While issuing the notice under Section 13(2) of the said Act on 17.02.2025, there was no intimation of the account of the petitioner being declared as a Non-Performing Asset. The said declaration, if at all, was never intimated to the petitioner. The Bank by way of its second notice under Section 13(2) of the said Act made a passing reference that the account of the petitioner has been declared as Non-Performing Asset on 17.02.2025;*
 - c) *The statement of accounts, which ought to have been disclosed with the notice under Section 13(2) of the said Act, had not been given.*
4. The fourth point had also been indicated which stems from the possession notice of 18.09.2025, by which the Bank had given the petitioner a period 60 days to make the payment.

This period of 60 days had not expired when the notice of sale was issued on 07.11.2025.

5. Mr. Bhattacharya, learned Advocate, representing the respondent-Bank submits that it is true that the intimation for the declaration of the account as a Non-Performing Asset had never been made and also true that the accounts had not been given with the under Section 13(2) of the said Act. However, he submits that the petitioner's remedy lies before the Debts Recovery Tribunal, the same being an alternative and efficacious remedy to redress the grievances of the petitioner.
6. Heard the learned Counsel for both the parties and perused the records.
7. It appears that the contentions raised by Mr. Samanta on behalf of the petitioner, are well-founded, both in law and on facts. This, especially in view of the admissions made by the Bank. It is true that the petitioner had not approached the Bank for acquiring these afore-stated documents and statement of accounts but equally true that no such approach is required from the end of the petitioner. The Bank ought to have disclosed these particulars as sought for by the petitioner.
8. It seems that the sale has been fixed on 12.12.2025.
9. The petitioner is at liberty to approach the Bank to foster a settlement, if so advised and if accepted by the Bank.
10. In spite of the afore-stated, it cannot be denied that the petitioner does have an alternative and efficacious remedy before the Debts Recovery Tribunal and is at liberty to approach the same at the earliest.
11. The concerned Debts Recovery Tribunal will take up the matter on an urgent basis, if filed by 30.11.2025, since the sale is fixed on 12.12.2025.
12. With these afore-stated directions, both writ-petitions being **WPA 24293 of 2025** and **WPA 25981 of 2025** are **disposed of**. There shall, however, no order as to costs.
13. Since the Bank has not filed any affidavit, the allegations contained in the petition are deemed not to have been admitted by the respondents.
14. Urgent Photostat Certified Copy of this order, be given to the parties, if applied for.

(REETOBROTO KUMAR MITRA, J.)

