OD–5 & 6

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO No.1790 of 2023

KUSUM TRADING COMPANY & ANR.
VS
CHIEF MANAGER, BANK OF BARODA & ANR.

&

WPO No.1793 of 2023

KUSUM TRADING COMPANY & ANR.
VS
CHIEF MANAGER, BANK OF BARODA & ANR.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 12th March, 2025.

Appearance :
Mr. Gopal Pitti (In person)
...for the Petitioners.

Mr. Dipanjan Datta, Adv.
Ms. Papiya Dutta, Adv.
Mr. Subhajit Chowdhury, Adv.
...for the Respondent Bank.

1. The petitioner no.2 appears in person virtually and submits that the bank has illegally classified the subject loan account as non-performing asset.

2. It appears from the submission made on behalf of the bank that the bank initiated an original application before the Debts Recovery Tribunal being O.A. No.513 of 2019 for recovery of the secured amount. Judgment was passed by the Tribunal on 25th September, 2024.

3. The petitioners submit that the summon of the original application was not served upon the petitioners in the proper address.

4. The judgment of the Tribunal dated 25th September, 2024 clearly records that the defendants were served with summons. As the defendants did not appear, the case was fixed for ex-parte hearing and heard ex-parte.

5. The Tribunal held in unequivocal terms that the bank is entitled to recover from the defendants the total amount to the tune of Rs.52,49,371.14/- (Rupees fifty two lakh forty nine thousand three hundred seventy one and fourteen paise only) and future interest at the rate of 12 per cent per annum on and from the due date till the date of final realisation of the claim.

6. Thirty days' time was given to the defendants for repaying the above due. The bank was permitted to recover its due by sale of secured assets, if any, in the event the defendants failed to pay within the stipulated time period.

7. It has been submitted by the learned advocate representing the bank that as the stipulated time period for repayment of the secured amount fixed by the Court had expired, accordingly, proceeding has been initiated by the bank for recovery of the due amount. A recovery certificate has already been issued by the Tribunal.

8. I am of the opinion that at this stage it will not be proper for the writ Court to reopen the issue of the loan account all over again.

9. The petitioners ought to initiate appropriate proceeding before the competent forum if the petitioners are aggrieved by the judgment passed by the Debts Recovery Tribunal permitting the bank to recover the due amount classified as non-performing asset.

10. The writ petition fails and is hereby dismissed.

11. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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