11.03.2026
Ct. No. 7
Sl. No. 28
RANJAN

WPA 5182 of 2026

MIR MOSARAF HOSEN AND ANR.
VS.
UNION OF INDIA AND ORS.

Mr. Dilip Kumar Samanta
Mr. Biswapriya Samanta
Mr. Subrata Palit
Mr. Akash Kumar Chakraborty
....for the Petitioners
Mr. Amit Sharma
Mr. Abhishek Kr. Agrahari
....for the Union of India

The grievance of the petitioner is directed against the initiation of both civil and criminal proceedings *vis-a-vis* a loan which had been granted to the petitioner.

It is submitted on behalf of the petitioner that in view of the admitted defaults in repayment of the loan, the respondent bank has initiated both civil and criminal proceeding which is impermissible.

The brief facts culminating in the filing of this writ petition are as that the petitioners had been granted a loan of Rs. 15,00,000/- by the respondent bank. It is admitted position that the entire amount of Rs. 15,00,000/- has been duly received by the petitioner in installments.

Prior thereto, the parties had also entered into agreement. In the view of the admitted defaults by the petitioner, the respondent bank had been compelled to issue a notice under section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. Subsequently, the respondent bank has also initiated proceeding under section 138 of the Negotiable Instruments Act, 1881.

In this background, it is contended on behalf of the petitioner that initiation of parallel proceedings both civil and criminal proceeding are barred by law and the respondent bank has to choose only one proceeding for recovery of their dues.

The Union of India is represented and submits that the instant writ petition is misconceived and not maintainable.

In such circumstances, the entire aim of the petitioner is to unnecessarily procrastinate recovery of their dues. Both the proceedings i.e. under Section 13(2) of SARFAESI and under Section 138 of the Negotiable Instruments Act, 1881 are different, distinct and separable remedies available to the respondent bank.

There is no merit in the writ petition. There is also no equity in favour of the petitioner since the petitioner as an admitted defaulter who has failed to repay public funds.

WPA 5182 of 2026 stands dismissed.

(RAVI KRISHAN KAPUR, J.)