IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Debangsu Basak

CO 179 of 2024

Sapiur Rahaman
Vs.
Indian Bank

For the Petitioner: Mr. Bikramaditya Ghosh, Advocate
Mr. Ved Rai, Advocate
Mr. Mayank Bhandari, Advocate
Mr. Vivek Saha, Advocate

Heard & Judgment on: January 6, 2026

DEBANGSU BASAK, J.:-

1. Revisional application is directed against order dated January 10, 2024 passed by the Debts Recovery Tribunal, Siliguri in T.O.A. No.371 of 2017 arising out of O.A. No.258 of 2015.
2. Revisional application is taken up for final hearing.
3. Learned Advocate appearing for the petitioner submits that, the opposite party initiated a proceeding under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. In such proceedings, the secured asset was sold. According to him, the sale

proceeds was in excess of the claim of the opposite party. In fact, a sum was refunded to the opposite party.

4. Learned Advocate appearing for the petitioner submits that, in such circumstances, the claim of the opposite party was satisfied. Be that as it may, he draws the attention of the Court to the impugned order. He submits that, the impugned order in Clause IV restrained the defendant from creating third-party rights in respect of any other properties of the petitioner. He submits that, any other properties apart from those mortgaged, cannot be restrained by the Debts Recovery Tribunal. Moreover, the claim of the opposite parties stands satisfied.

5. Hon'ble Supreme Court in a number of authorities including ***United Bank of India vs. Satyawati Tandon & Ors.*** reported in ***(2010) 8 SCC 110*** and ***T.P Vishnu Kumar vs. Canara Bank*** reported in ***(2013) 10 SCC 652*** is of the view that, the High Court should not exercise jurisdiction under Article 226 of the Constitution of India in respect of proceedings initiated under the Recovery of Debts due to Bank and Bankruptcy Act, 1993 or under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in view of the existence of statutory alternative remedy.

6. In the facts and circumstances of the present case, the petitioner possesses statutory alternative remedy under Section 21 of the Act of 1993.

7. It is trite law that financial hardship is no ground for waiving the right of appeal or entertaining a writ petition under Article 226 or a revisional application under Article 227 of the Constitution of India where a statutory alternative remedy by way of an appeal exists.
8. It is admitted that, the petitioner owed a liability to the opposite party. According to the petitioner, the sale proceeds of the sale of the secured asset under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was sufficient to cover the claim of the opposite party.
9. The impugned order passed by the Debts Recovery Tribunal is under Section 19 of the Act of 1993 and subsequent to the sale of the secured asset by the opposite party.
10. Therefore, on the basis of such materials, it cannot be pronounced conclusively that, the claim of the opposite party stood satisfied as on the delivery of the order dated January 10, 2024. Such issue is an issue of fact which can be adequately considered in an appeal.
11. In such circumstances, **CO 179 of 2024** stands **disposed of** by permitting the petitioner to avail of the statutory alternative remedy, if so advised.

(Debangsu Basak, J.)

(AD)