

Constitutional Writ

Present : The Hon'ble Mr Justice Jayanta Kumar Biswas
Judgment on 26.08.2010

W.P.No.16817(W) of 2010
M/s. Palpit Viniyog Private Limited & Anr.
-vs-
Indian Overseas Bank & Anr.

Points:

Scope of Writ- Alternative remedy lies whether writ maintainable - Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002-S 17, 31

Facts:

The property, particulars whereof have been incorporated in the notice, cannot be considered a security, with respect to that the Bank cannot be considered a secured creditor. In view of the provisions of s.31 of the Act, the Bank could not take steps with respect to agricultural property.

Held

When the petitioners' statutory remedy was under s.17 there is no reason why the High Court should exercise power under art.226 for interfering in the matter. There is no reason for the High Court to derail the proceedings initiated by the Bank under provisions of the special statute that provides efficacious remedy to aggrieved persons such as the petitioners. Para 3 and 4

Mr. Arindam Mukherjee
Mr. Saurabh Moitra
Mr. Avirup Chatterjee

.... for the petitioners

None

....for the respondents

The Court : The petitioners in this art.226 petition dated August 6, 2010 are questioning the possession notice dated June 2, 2010 (at p.47) issued by the authorised officer of Indian Overseas Bank, Bhowanipore Branch under s.13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. Counsel submits that since the property, particulars whereof have been incorporated in the notice, cannot be considered a security, with respect to that

the Bank cannot be considered a secured creditor. His further submission is that in view of the provisions of s.31 of the Act, the Bank could not take steps with respect to agricultural property.

3. All these contentions could be raised before the Tribunal in appeal under s.17 of the Act. When the petitioners' statutory remedy was under s.17, I do not find any reason why the High Court should exercise power under art.226 for interfering in the matter.

4. In my opinion, there is no reason for the High Court to derail the proceedings initiated by the Bank under provisions of the special statute that provides efficacious remedy to aggrieved persons such as the petitioners.

5. For these reasons, the petition is dismissed. No costs. Certified xerox.

(Jayanta Kumar Biswas, J)