

Appellant Vs. Respondent

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SooperKanoon Citation : sooperkanoon.com/1118973

Court : Kolkata

Decided On : Jan-17-2014

Judge : Soumen Sen

Appellant : Appellant

Respondent : Respondent

Judgement :

GA No.95 of 2014 CS190 of 2013 IN THE HIGH COURT AT CALCUTTA ORIGINAL SIDE M/S VINAR SYSTEM PVT.LTD.M/S.RAMSARUP LOHH UDYOG LTD.BEFORE: The Hon'ble JUSTICE SOUMEN SEN Date : 17th January, 2014.

Ms.H.Chakraborty, Advocate appears. The Court :- This application appears to be a dishonest attempt on the part of the applicant in trying to scuttle the proceeding which is pending before this Court on a specious plea that a reference is pending before the BIFR.

Mr.Banerjee , learned Counsel appearing on behalf of the plaintiff refers to the summary record of the proceeding of the hearing held on 8th August, 2013 by the BIFR wherefrom it appears that the learned Advocate appearing on behalf of Allahabad Bank stated that action under Section 13(4) of the SARFAESI Act has already been taken against the company by PNB being the consortium bank.

The State Bank of India also submitted in the same line as that of the Allahabad Bank.

The order annexed to the petition shows that the BIFR had fixed the matter on 3rd October,2013 for hearing.

The petitioner has not disclosed any document to show that the BIFR had continued with the proceeding after 3rd October,2013.

The petition also does not say anything about what happened on 3rd October,2013.

In any event, in view of Section 15 of the SICA, 1985 which has been amended by Section 41 of the Securitization Act, it appears that the reference has abated.

The suit had appeared on many occasions and it was only after the examination-in-chief of the witness on behalf of the plaintiff was concluded.

An attempt was made by the applicant/defendant to have the suit adjourned in view of pendency of a reference before the BIFR.

Since this Court, having regard to the order passed by the BIFR, is of the opinion that the reference, if any, has abated.

In view thereof, this application stands dismissed with cost assessed at Rs.10,000/-.

All parties concerned are to act on a signed photocopy of this order on the usual undertakings.

(SOUMEN SEN, J.) S.Chandra AR(CR)

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