

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4576 OF 2008
(Arising out of S.L.P. (C) No.4170 of 2008)

Tehri Hydro Development Corporation Ltd. ...Appellant(s)

Versus

State of Uttarakhand and Ors.

...Respondent(s)

O R D E R

Though the case was placed under the heading “Incomplete After Notice Matters”, but learned counsel appearing on behalf of the parties made a prayer that the special leave petition may be taken up for consideration and disposed of finally.

Leave granted.

Heard learned counsel appearing on behalf of the parties.

By the impugned order, the High Court has disposed of the writ petition filed on behalf of the appellant whereby it had challenged the demand of Rs.64,48,54,891/- raised by the Tehsildar under the Uttar Pradesh Zamindari Abolition and Land Reforms Act [for short, “U.P. Act”] on the sole ground that, under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,

...2/-

2002 (for short, 'SARFAESI Act'), the appellant could have availed the remedy of appeal. The High Court directed that the appeal shall be filed within fifteen days and that the application for interim relief, if filed, shall be disposed of within next fifteen days. Hence, this appeal by special leave.

From a bare perusal of the records, it is evident that the recovery sought to be made from the appellant does not fall within the SARFAESI Act. It is a plain and simple demand created under the U.P. Act. No steps whatsoever were taken by the concerned authority under the SARFAESI Act. This being the position, we are clearly of the view that the High Court has disposed of the writ petition under a misconception.

Accordingly, appeal is allowed, impugned order is set aside and the matter is remanded to the High Court to dispose of the writ petition on merit after giving opportunity of hearing to the parties in accordance with law.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
July 21, 2008.