

11.09.26
D/L
Sl-05
Ct. 07
(Samar)

WPA 23887 of 2026

**Punjab National Bank
-Vs-
The State of West Bengal & Ors.**

Ms. Parna Roy Choudhury,
...for the petitioner.
Mr. Falguni Bandopadhyay,
Ms. Sarda Sha,
....for the State.

1. Affidavit of service filed in Court today is taken on record.
2. This is an application by a Bank assailing an order dated August 18, 2026 passed by the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas in Misc. Case No. 471 of 2026 initiated under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner had filed an application under section 14 of 2002 Act seeking orders for Police Assistance in order to take physical possession of the secured asset of the petitioner.
3. The learned Additional Chief Judicial Magistrate has rejected the petitioner's application by the impugned order.
4. Ms. Roy Choudhury, learned advocate appearing for the petitioner has taken this Court through the

copy of the deed of conveyance dated August 17, 1999 (which is said to have been deposited with the Bank in order to create equitable mortgage over the property which forms the secured asset of the Bank) as well as the notices issued under Section 13(2) of the said Act and Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 as also the application under Section 14 of the 2002 Act to demonstrate that the description of the property in all the documents held by the Bank clearly match.

5. It is submitted that the Bank would provide only such information as would be available with the Bank in terms of the title deed deposited with the Bank for the purpose of creating equitable mortgage over property in respect thereof, the Bank has security interest.
6. Mr. Bandopadhyay, learned advocate appearing for the State respondents submits that the impugned order has been passed since the flat in question was not identifiable.
7. Heard learned advocates appearing for the respective parties and consider the material on record.
8. The order impugned reads thus:-

“Today is fixed for passing order.

Heard the Ld. Advocate of the petitioner.

On perusal of record I do find a report submitted by the Head Clerk of this establishment from which it

transpires that there is lack of description of the property, the applicant referred Flat situated at 2nd floor South East side but not referred the flat number. It is fact that for the purpose of execution it is essential to give all inputs for identification of the property, if it lacks, in that case it is not possible to execute.

Accordingly, the application u/s.14 SARFEASI Act is hereby”

9. A perusal of the order passed by the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas reveals that the same has been passed on the basis of the report submitted by the head clerk of the establishment and not on the basis of independent application of mind by the learned Additional Chief Judicial Magistrate. That renders the order fallible.
10. In case, there was any discrepancy or any other confusion, an explanation to such effect could have been called for instead of outrightly rejecting the petitioner's application under Section 14 of the 2002 Act.
11. While it is well settled that the role of the authority under Section 14 of the 2002 is non adjudicatory but then as to whether the statutory requirements indicated in Section 14 of the 2002 Act apropos the affidavit that accompanies the application have been met or not has to be checked by the authority under Section 14 of the 2002 Act only. The

authority should thereafter proceed to pass appropriate orders. Accordingly, the order dated August 18, 2026 is set aside. The matter is remitted to the file of the learned Additional Chief Judicial Magistrate, Alipore, South 24 Pargana for fresh consideration in accordance with law

12. WPA 23887 of 2026 stands disposed of. No Costs.
13. The learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas is requested to dispose of the said application as expeditiously as the business of the court permits.
14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)