

22/07/2021
Item No.19.
Court No.8.
AB

Through Video Conference

W. P. A. 3478 of 2020

UCO Bank & Anr.

Vs

The State of West Bengal & Others

Mr. Sudeep Pal Choudhury ...for the Petitioners.

Mr. Amitesh Banerjee ...for the State.

Ms. Suparna Das ...for the Respdt 9.

Mr. Kamalesh Bhattacharya, Sr. Adv,
Mr. Bidhan Biswas ...for the Respdt 7 & 8.

The writ petition is taken up for consideration subsequent to the order dated July 16, 2021.

Learned advocate appearing for the State submits that, the order under Section 17 of the Securitisation & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 stands implemented.

Learned advocate appearing for the petitioners submits that, they received possession.

Learned senior advocate appearing for the respondent nos.7 and 8 submits that, no notice was given to the respondent nos. 7 and 8 and the immovable property was sold by the secured creditor.

Therefore, the provisions of Act, 2002 cannot be invoked at the present stage.

Learned advocate for the respondent no.9 submits that, her client is a tenant in respect of a portion of the immovable property. The possession of her client was affected. She submits that, there subsists an order of injunction passed by the civil court.

Learned senior advocate for the respondent nos.7 and 8 submits that the pendency of the proceedings under Section 17 of the Act, 2002 was suppressed by the bank in the application under Section 14 of the Act, 2002.

Learned advocate for the bank submits that although an application under Section 17 was filed, there was no order restraining the bank from invoking the possession under the Act, 2002. The bank is entitled to invoke under the Act of 2002 even subsequent to the bank selling the immovable property concerned. So far as the respondent no.9 is concerned, he submits that the respondent no.9 can avail of the remedies provided under Section 17(4-A) of the Act, 2002.

In the facts of the present case, there subsists an order under Section 14 of the Act, 2002. Complaining that the State Authorities were not providing police protection in terms of the order under

Section 14 of the Act, 2002, the bank approached writ Court. Subsequent to the order dated July 16, 2021 passed by the Court the State provided with the police assistance in terms of the order passed under the Act, 2002.

There is a proceeding under Section 17 of the Act of 2002 pending. Such proceedings are at the behest of the respondent nos.7 and 8. The respondent nos.7 and 8 are at liberty to raise the issues sought to be raised herein in such proceedings if they are so entitled to in law. So far as the respondent no.9 is concerned, he is at liberty to approach the appropriate forum in accordance with law for protection of his so-called tenancy right. A writ court need not enter into the issue as to whether the respondent no.9 is a bona fide tenant or not, particularly in view of the pendency of civil suit and in view of the statutory remedies available under the Act of 2002.

W.P.A. No.3478 of 2020 is disposed of, accordingly.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Debangsu Basak, J.)