

07.12.2021.

Item No. 10.
Court No.13

pk

**W.P.A. No. 12726 of 2021
(Through Video Conference)**

**Smt. Jhunu Paul and another
Versus
Union of India & Ors.**

Mr. Sankar Nath Mukherjee,
Mr. N. Gupta

..For the petitioners.

Mr. Sankar Sarkar

... for the Union of India.

Notice evidencing service on the respondents is filed in Court today. The same is taken on record.

The writ petitioners are aggrieved by an order dated 20.02.2020 passed by the District Magistrate, South 24 Parganas under Section 14 of the SARFAESI Act, 2002.

It is submitted that the said order was served on the petitioners only on February, 2021. They have lost the opportunity of challenging it under the Act of 2002 since the limitation period is sixty days. It appears from the records that there is S. A. 66 of 2017 pending where the petitioners have challenged the notice under Section 13(4) of the SARFAESI Act issued by the respondent bank.

Counsel for the petitioner, however, relies on a judgement of Supreme Court in Civil Appeal No. 3441 of 2020 (C. Bright Vs. The District Collector and

others). It has been stipulated that period of sixty days mentioned in the SARFAESI Act for the purpose of challenging the order under Section 14 is not mandatory and the provisions of Section 5 of the Limitation Act can be applied thereat.

This Court is, therefore, of the view that since the proceedings challenging the bank's action under Section 13(4) of the SARFAESI Act are already pending, the grievances in respect of the proceedings under Section 14 is best raised before the Debts Recovery Tribunal No. 3 at Kolkata in S. A. No. 66 of 2017.

It is made absolutely clear that this Court has not gone into the merits of the claim of the petitioners in respect of the order under Section 14 of the SARFAESI Act.

In that view of the matter, the petitioners may make an appropriate prayer before the Debts Recovery Tribunal seeking relief against the order under Section 14 of the SARFAESI Act and the same may be considered by the Debts Recovery Tribunal strictly in accordance with law.

With the aforesaid observations, the writ petition is disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)