

11
19.03.2021
sb
Ct23

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via Video Conference)

WPA 10594 of 2020

Aditya Birla Finance Limited
Vs.
The State of West Bengal & Ors.

Mr. Dhruba Ghosh, Sr. Advocate,
Mr. Piyush Agarwal,
Ms. Hera Nafis
... For the petitioner.

Mr. Mahendra Prasad Gupta
... For the State.

Affidavit of service filed on behalf of the
petitioner is taken on record.

The petitioner is a Non-Banking Finance
Company (in short, NBFC). The petitioner in order to
take possession of the secured assets had
approached the learned District Magistrate, North 24
Parganas, under the provisions of section 14 (1) of
Securitization and Reconstruction of Financial Assets
and Enforcement of Security Interest (in short,
SARFAESI) Act, 2002 on 25th September, 2020. The
provision of section 14(1) mandates the Chief
Metropolitan Magistrate or the District Magistrate on
being approached shall pass suitable order for the
purpose of taking possession of the secured assets
within a period of 30 days from the date of the
application. The provision also allows a further period

of thirty days that too upon recording reasons in writing for passing such suitable order in the event, the Magistrate concerned is unable to pass the order within the first 30 days. In the instant case, about six months have expired from the date of making the application by the petitioner. No order has been passed till date for the purpose of taking possession.

Considering the pandemic, I am inclined to take a lenient view as to the failure of the District Magistrate, North 24 Parganas, in passing the order on being approached on 25th September, 2020 within the statutory time frame. This, however, does not absolve the responsibility of the said Magistrate to expeditiously pass suitable orders for taking possession due to pandemic.

In the facts and circumstances, after considering the submissions made by the parties and the materials on record, I direct the District Magistrate, North 24 Parganas, to pass suitable orders for taking possession, if he deems so fit, by considering the petitioner's application within a period of three weeks from date. The concerned District Magistrate shall, however, decide the petitioner's application in accordance with law, without being influenced by any finding in the instant order, after complying with the provisions of natural justice and by affording the parties a

reasonable opportunity of hearing. The order shall also be communicated immediately.

Nothing further remains to be adjudicated in the writ petition and the same is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)