

WPO/460/2021

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

PRABHA DEVI SARAF

-Versus-

INDIAN OVERSEAS BANK AND ORS.

Appearance:

Mr. Joy Saha, Sr. Adv.
Ms. Vidushi Chokhani, Adv.
Mr. Vikram Wadehra, Adv.
...for the petitioner.

Mr. Sudip Palchowdhury, Adv.
...for the Bank.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 23rd August, 2021.

The Court : The writ petitioner is aggrieved by the order dated 5th January, 2021 passed by the learned Chief Metropolitan Magistrate, Kolkata under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) at the request of the Indian Overseas Bank.

It is submitted that the writ petitioner is neither the borrower nor the guarantor and yet possession is sought to be taken by the Bank with the help of the Metropolitan Magistrate to secure the dues of Vinayak Iron and Coke Pvt. Ltd.

It is submitted that the writ Court has been approached since the Presiding Officer of Debts Recovery Tribunal-III is on leave. The writ petitioner has filed an application under Section 17 of the SARFAESI Act challenging the action of the Bank and the Magistrate before the DRT-III where only a diary number being 603 of 2021 has been given.

Urgency is indicated since the Bank is on the verge of taking possession of the secured assets immediately.

Mr. Palchowdhury, learned counsel appearing for the Bank submits that the principal borrower, Vinayak has filed SA No.100 of 2014 that was heard before the DRT-III on 19th August, 2021. The next date is fixed on 26th August, 2021.

The DRT-III at Kolkata is directed to list the writ petitioner's application under Section 17 of the SARFAESI Act, 2002 under Diary No.603 of 2021 on 26th August, 2021 and hear the same with or independent of SA No.100 of 2014.

With the aforesaid direction, WPO/460/2021 is disposed of without any order as to costs.

(RAJASEKHAR MANTHA, J.)

A/s.