

OD-1

ORDER SHEET

WPO/1340/2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PINKY LEPCHA & ORS.
Versus
AADHAR HOUSING FINANCE LIMITED & ANR.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : December 20, 2021.

[Via video conference]

Appearance:

Mr. Rishad Medora, Adv.
Mr. Meghajit Mukherjee, Adv.
For the petitioner no.1.

Mr. Protip Mukherjee, Adv.
Mr. Sayak Ranjan Ganguly, Adv.
Ms. Asha Mehta, Adv.
For the respondent no.1.

The Court:- Affidavit-of-service filed in Court today is taken on record.

The writ petitioners have challenged the proceedings under the SARFAESI Act, 2002 initiated by the respondent no.1, inter alia, against her late husband. For the purpose of this order the following facts are necessary for determination of preliminary issue.

Some time in 2007 the late husband of the petitioner no.1 had availed a loan from Malleswaram Branch at Bangalore of one Vysya Bank Housing Finance Ltd. The ownership of the said financier appears to have changed hands from time to time. Some time in February/March, 2020 the first respondent addressed a notice to late husband of the petitioner no.1 at Bangalore in connection with

the said housing loan. All notices appear to have been issued by the respondent no.1 to late husband of the petitioner no.1 at Bangalore. The property in question on which security interest claimed by the respondent no.1 is also located at Bangalore.

Jurisdiction of this Court has been invoked in that the petitioners are residing in Kolkata and the recovery agents of the respondents are threatening the petitioners here in Kolkata. It is also argued that the respondent no.1 has a branch at Kolkata.

It is now well settled that merely because the principal respondent has a branch within the jurisdiction of a Court would not confer jurisdiction. The cause of action, substantially and an integral part thereof, must be demonstrated, to have arisen within the jurisdiction of the said Court. Reference in this regard is made to the decision of **Morgan Stanley Mutual Fund Vs. Kartick Das** reported in **(1994) 4 SCC 225** and **ONGC Vs. Utpal Basu** reported in **(1994) 4 SCC 711**.

In the first of the two cases a public issue was floated in Maharashtra was sought to be interfered with by for a under the Consumer Protection Act, 1986 in Kolkata. In the second, the writ petitioner no.1 tenderer in Kolkata had challenged actions of the respondents at Delhi, on the ground that the tender was submitted from and the order of rejection was received at Kolkata. The Hon'ble Supreme Court has held in both cases that Courts in Kolkata would not have jurisdiction to entertain the petition. The arguments of the original petitioners were rejected.

The submission of counsel of the petitioner no.1 is that his client has received threats from the respondent No.1 at Kolkata. The prayers seeking redressal against such threats have not been made in the writ application.

Hence, this Court is not inclined to entertain the writ petition for want of the territorial jurisdiction.

WPO No. 1340 of 2021 stands dismissed.

This Court has not called for any affidavit(s) and has not entered into the merits of the claims of the petitioners or the respondents. None of the allegations contained in the writ petition shall be deemed to have been admitted by the respondents.

(RAJASEKHAR MANTHA, J.)