

S/L 179
27.06.2022
Court. No. 19
GB

WPA 437 of 2022

Sri Ashutosh Das
VS
The State of West Bengal & Ors.

Mr. Swarup Banerjee,
Mr. Abhirup Chakraborty.

...for the Petitioner.

The petitioner is aggrieved by the inaction of the Inspector-in-Charge, Contai Police Station in protecting the mortgaged property of the petitioner. The loan account had been declared to be a non-performing asset. According to the petitioner, the bank authorities of the Axis Bank Limited, Contai Branch did not accept the multiple proposals for onetime settlement. The petitioner is apprehensive that the bank will send its muscle men and such muscle men in the collusion with the police authorities, shall take over possession of the mortgaged property.

It appears that apprehending that an order may have been passed by the District Magistrate under Section 14 of the SARFAESI Act directing the police authorities to take possession of the property and hand over the same to the bank, a query under the Right to Information Act was made by the petitioner. The petitioner is in the dark as to whether any order has been passed with regard to the resumption of possession of the petitioner's mortgaged property.

In effect, an injunction upon the bank from taking over possession of the property under the SARFAESI is being prayed for, with a further restraint upon the police

authorities from acting on the basis of any order that may be passed in the proceedings.

This Court does not find that there is any reason to allow the prayers of the petitioner. The writ petition is based on apprehension. The pleadings indicate that SARFAESI proceedings may be pending. The petitioner approached the District Magistrate, Purba Medinipur with queries as to whether the bank had approached the District Magistrate for orders to obtain physical possession of the property in question and/or whether the District Magistrate had passed any order thereon. A representation was made to the authorized officer, Axis Bank Limited in this regard. There are disputes with regard to the onetime settlement allegedly arrived at.

Under such circumstances, the writ Court cannot intervene in a proceeding, which is pending under the applicable law. The contention of the petitioner with regard to payment of the maximum amount of the due, cannot be decided by the writ court. Such issue shall be decided by the appropriate forum, if available under the law.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)