

03.03.2022.
Court No.13
Item No. 9
ap

**W.P.A. No. 2034 of 2022
(Through Video Conference)**

**Mr. Bikash Sharma
Versus
The District Magistrate, North 24 Parganas & Ors.**

Mr. Moti Sagar Tiwari,
Ms. Shweta Poddar.

...For the petitioner.

Mr. Jishnu Chowdhury,
Ms. Soni Ojha,
Ms. S. Biswas (Chatterjee).

...For the respondent no.2.

The writ petitioner seeks interference with the order of the District Magistrate, North 24 Parganas dated 7th December, 2021 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short SARFEASI Act, 2002).

The District Magistrate, North 24 Parganas had directed the secured assets of one Bikash Sharma, Director and Guarantor of the Corporate Debtor to be taken into possession and handed over to HDFC Bank.

The writ petitioner has argued that the Company Law Tribunal has admitted a resolution plan in respect of one M/s. S.B. Ispat (P) Ltd. the Corporate Debtor and moratorium has crept in. It is submitted that in view of the said order of the National Company Law Tribunal, the order of the District Magistrate, North 24 Parganas under Section 14 of the SARFEASI Act, 2002 ought to be stayed.

It appears from the order of the District Magistrate, North 24 Parganas that the secured assets in the name of Bikash Sharma has been taken possession as Director and Guarantor of the corporate debtor above.

The moratorium against the corporate debtor does not, therefore, apply to the writ petitioner.

Mr. Moti Sagar Tiwari, learned Counsel appearing for the writ petitioner, however, disputes that his client is a guarantor of the corporate debtor.

This Court shall not enter into the said dispute since the matter is pending before the appropriate forum.

In that view of the matter, reserving the right of the petitioner, if any, under the applicable Laws, to challenge the order of the District Magistrate, North 24 Parganas in accordance with law.

The instant writ petition is disposed of without any order.

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.)