

21.04.2022  
Court No.13  
Item No.40  
AP

**WPA 5318 of 2022**

**Sri Prasenjit Biswas  
Vs.  
UCO Bank and Ors.**

Mr. Bhabani Prasad Mondal  
Mr. Sukanta Mondal

... For the Petitioner.

Mr. Ashim Kumar Ganguly  
Mr. Jaydip Banerjee

... For the State.

Mr. Sachetan Ghosh

... For the Respondent Nos.1 & 2.

The petitioner is aggrieved by the fact that the UCO Bank, claiming to be a secured creditor of the flat occupied by him, has illegally evicted him therefrom under Section 14 of the SARFAESI Act, 2002.

The petitioner submits that he is neither a borrower, nor a guarantor. It is submitted that the flat Nos.2 and 5 in the second floor of the said building have been mortgaged to the UCO Bank by one Sampa Manna. The petitioner has not mortgaged his flat to the bank.

Counsel for the bank submits that the petitioner has surreptitiously changed the flat numbers for the purpose of avoiding and frustrating the recovery process of the bank. The same is denied by the writ petitioner.

This Court notes that there are disputed questions of fact, which cannot be adjudicated in a petition filed under Article 226 of the Constitution of India. Since the petitioner challenges an action of the UCO Bank under the SARFAESI Act, 2002, he may approach the Debts Recovery Tribunal for this purpose under Section 17 of the SARFAESI Act, 2002.

It is made clear that if the petitioner files such application/appeal under Section 17 of the SARFAESI Act, 2002, within a period of twenty days from date, the same shall be entertained and decided by the Debts Recovery Tribunal, in accordance with law.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**