

12.07.2022
Court No. 19
Item no.112
CP

W.P.A. No. 11511 of 2022

Biswajit Das
Vs.
The State of West Bengal & ors.

Mr. S. Bhattacharyya
Mr. Debapriya Majumder
....for the petitioner.

Mr. Pantu Deb Roy
Mr. P. Bandopadhyay
...for the State respondents.

Despite service, none appears on behalf of the respondent no. 9.

The contentions of the petitioner with regard to the right of his father to stand as a guarantor and in mortgaging the property of which the petitioner claims to be the rightful owner, cannot be decided in this proceeding. The possession notice which was issued by the bank, cannot be challenged before the writ court. Whether the petitioner's father could have stood as a guarantor or could have mortgaged the property are issues to be decided before the appropriate forum in an appropriate proceeding.

The possession notice was issued in terms of Section 13(12) of the Securitization and Reconstruction of Financial Assets and Enforcement

of Security Interest Act, 2002, read with Rule 3 of the Security Interest (Enforcement) Rules, 2002.

The police report is taken on record. It appears from the report, that a Title Suit has been filed by the petitioner challenging the possession notice. Enquiry was made by the police authorities. Upon apprehending breach of peace, prosecution under Section 107 of the Cr.P.C. was submitted against the respondent no. 9.

Under such circumstances, nothing further remains to be decided in the writ petition. The police authorities shall keep a vigil to ensure that the petitioner and his family members, are not unnecessarily harassed by anyone.

However, this order shall not be used as a protection or a shield from the proceedings that has been initiated by the bank or may be initiated by the bank in future, in respect of the property in question.

The writ petition is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)