29.07.2022
Court No. 19
Item no.04
CP

W.P.A. No. 16207 of 2022

UCO Bank & anr.
Vs.
The State of West Bengal & ors.

Mr. Sudeep Pal Choudhuri
...for the petitioners.

Mr. Subhadip Biswas
Mr. Shuvanil Chakraborty
Ms. Priyanka Anand Sharma

....for the respondent nos. 7 & 8.

This writ petition has been filed by the secured creditor, namely, the UCO Bank, praying for necessary directions upon the Superintendent of Police, Basirhat Police District to execute the order of the District Magistrate dated March 31, 2021, which was passed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), by providing adequate police force.

The petitioner accordingly deposited the cost for such police assistance before the SBI, Basirhat, amounting to Rs.56,666/- vide T.R. Form No. 7. The petitioner submits that although such deposit of police cost was verified by the Superintendent of Police, Basirhat Police District on October 27, 2021, no assistance was provided to the bank thereafter. Hence, this writ petition has been filed.

Learned advocate for the respondent nos. 7 and 8 submits that the order passed under Section 14 of the SARFAESI Act was challenged by IA Nos. 3195 and 3196 of 2021 before the Debt Recovery Tribunal – 3 (hereinafter referred to as the tribunal). The hearing of the said applications are going on and the petitioner/bank is contesting the said proceedings. It is also submitted that the auction of the property in question which was held by the bank has been stayed by the leaned tribunal, by an order dated June 30, 2021.

Documents and bank statements have been produced before this court in order to show that even after the order of physical possession was passed by the District Magistrate, more than Rs.7 lakhs have been paid by the borrowers. It is submitted that the bank has also accepted the said amount.

However, these are disputes which have to be gone into by the learned tribunal before which the applications are pending.

Under such circumstances, this court is of the view that at the present moment, the allegation of inaction of the police authorities does not arise in view of the proceedings which are pending before the tribunal and also because after the order was passed, the bank has been paid some money by the borrowers.

This order is also passed in view of the fact that the borrowers have submitted before the court that they are willing to pay the remaining amount.

The proceedings before the tribunal will continue in accordance with law. This court does not make any observation on such proceedings.

The borrowers will pay an amount of Rs.8 lakhs within September 12, 2022, to the bank. The remaining amount shall be paid either on the basis of the decision to be arrived at between the parties or on the basis of any order that is passed by the learned tribunal.

In case of default, the Bank shall be at liberty to approach the Superintendent of Police, Basirhat Police District for necessary police assistance for execution of the order of the learned District Magistrate.

It is made clear that the pending applications before the learned tribunal including the IAs shall be disposed of within a period of two months from the next date fixed.

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.)