

12.08.2022

sayandeep

Sl. No. 03

Ct. No. 05

WPA 16822 of 2022

Kalpana Mondal

-Versus-

State of West Bengal & Ors.

Mr. Prabir Kumar Chaudhuri

..... for the petitioner

Ms. Sweta Mukherjee

Mr. Prantik Gorai

... for the State

Mr. Samrat Mukherjee

.....for the UCO Bank

The petitioner has come before the Court stating that the petitioner has been dispossessed from her residence on 22nd June, 2022. Learned counsel submits that the petitioner is neither a borrower nor the guarantor of the loan taken by the petitioner's son from the Bank. Counsel submits that the petitioner's son has forged the signature of the petitioner in availing of the loan from the Bank.

Learned counsel appearing for the Bank submits that the petitioner deposited the original title deeds to the Bank in respect of the property and further submits that the impugned action was taken by the Bank pursuant to an order passed by the District Magistrate under Section 14 of the SARFAESI Act, 2002. It is also submitted that the petitioner has instituted a criminal case against her son.

The State is represented.

The writ petition involves disputed questions of fact. The petitioner's role, if any, in the transaction with the Bank is not clear. In any event, the petitioner has a statutory alternative remedy available to her under the SARFAESI Act, 2002 under which the petitioner is entitled to apply before the Debts Recovery Tribunal for appropriate relief. In the event, the concerned DRT is not functioning, the petitioner can certainly come to the writ Court, as several orders have been passed by this Court in such cases. However, the petitioner must first approach the DRT and ask for appropriate relief.

The DRT will of course consider the facts presented before this Court and determine whether the petitioner is entitled to any relief.

WPA 16822 of 2022 is accordingly dismissed without any order as to costs.

The only relief which can be passed for some protection is waiving of the statutory time limit under the 2002 Act.

The petitioner shall be at liberty of approaching the DRT from today onwards.

(Moushumi Bhattacharya, J.)