

15th September, 2022
(D/L No.15)
(SKB)

W.P.A. 21296 of 2022

Vardhan Jaiswal and another
-Versus-
Debts Recovery Tribunal – I, Kolkata and others

Mr. Suddhasatva Banerjee,
Mr. Debjit Mukherjee
... for the petitioners.

Ms. Soni Ojha
... for the respondent nos.4 & 5.

Mr. Subhabrata Das
... for the State.

The petitioners seek urgent relief against an order passed by the Chief Metropolitan Magistrate, Calcutta on 20th July, 2022 under Section 14 of the SARFAESI Act, 2002. The documents placed before the court show that this order was communicated to the petitioners and received by the petitioners on 13th September, 2022.

Learned counsel appearing for the petitioners submits that the DRT-I is presently not sitting and the matters of DRT-I have been assigned to the Cuttack Bench where, although hearing of the matters are allowed virtually, mentioning must be done in the physical form. This is submitted on instructions.

The affairs of the DRT and its divisions as presented before this court in several matters by petitioners seeking urgent relief reflect a sorry state of affairs. The DRT does not function in most cases either by reason of demitting of office by the members or

ceasework by the advocates or for other reasons. It is inconceivable that a litigant would be deprived of the statutory forum for challenging a threatened act even though a statutory remedy has been provided to the litigant.

In the present case, the relevant communication of the Bank indicates that physical possession of the secured assets will be taken today i.e. 15th September, 2022. This is corroborated by the information given to the court by learned counsel appearing for the State that police have been deployed at 1 p.m. today to take possession of the secured assets.

Considering the above facts and that the application filed by the petitioners before the DRT on 14th September, 2022 will only be taken up by the DRT, Cuttack Bench on 20th September, 2022, the petitioners are entitled to limited interim protection.

The Bank is restrained from taking any action against the concerned communication annexed to the writ petition until 21st September, 2022 in terms of the order dated 20th July, 2022.

W.P.A.21296 of 2022 is disposed of in terms of the above.

The parties shall be at liberty of acting on the basis of communication of the order as dictated in court today.

(Moushumi Bhattacharya, J.)