

19th December, 2022
(D/L No.39)
(SKB)

W.P.A. 27227 of 2022

Kashmiri Begum
Versus
The State of West Bengal and others

Mr. Tilak Mitra,
Md. Safiur Rahaman,
Mr. Sourav Paul
... for the petitioner.

Mr. Nilotpal Chatterjee,
Mr. Amrita lal Chatterjee
... for the State.

Ms. Debolina Lahiri,
Mr. Mrinmoy Chatterjee
... for the respondent nos.6 to 8/Bank.

The petitioner admittedly seeks relief under an action taken by the Bank under the provisions of the SARFAESI Act, 2002. The petitioner claims to be the wife of the borrower and that the petitioner's husband has been missing for a substantial length of time.

After hearing learned counsel, this court is of the view that the petitioner should avail of the statutory remedy available to the petitioner under Section 17(1) of the 2002 Act. Although learned counsel appearing for the petitioner submits that the cause of action in filing the writ petition arose from a notice dated 25th November, 2022, which was affixed to the petitioner's residence, this court is of the view that the cause of action arose much earlier on 18th March, 2019 when the

Bank issued the notice under Section 13(4) of the 2002 Act. This would be evident from an order passed by the District Magistrate on 24th August, 2022 under Section 14 of the 2002 Act. The notice under Section 13(4) dated 18th March, 2019 is also placed before this court.

This court finds no reason to entertain the writ petition when the petitioner, as the wife of the borrower, has the opportunity of approaching the DRT for appropriate relief.

The submission of learned counsel appearing for the petitioner that the petitioner was not aware of any of the notices is taken note of. This is disputed by the learned counsel appearing for the Bank.

W.P.A.27227 of 2022 is disposed of with liberty to the petitioner to approach the DRT within 22nd December, 2022. The time period within which an application was to be made under Section 17(1) of the 2002 Act is extended until 23rd December, 2022. All contentions of the petitioner made before this court shall be urged before the DRT.

(Moushumi Bhattacharya, J.)