

ORDER SHEET
WPO/2871/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SANJAY BANIK
-VS-
THE STATE OF WEST BENGAL & ORS.

BEFORE:
HON'BLE JUSTICE RAJASEKHAR MANTHA
DATE: 15TH NOVEMBER 2022.

APPEARANCE:
Mr. A. Bhattacharyya, Adv., appears for petitioner.
Mr. P. Mukherjee, Adv.; Mr. S.R. Ganguly, Adv.; Ms. S. Ghosh, Adv., for respondent no.5.

THE COURT: The petitioner prays for a writ of mandamus in respect of an order of the District Magistrate, South 24-Parganas, dated November 26, 2020, issued under section 14 of the SARFAESI Act, 2002. By the said order, a flat in the possession of the petitioner is sought to be delivered to the respondent no.5. The respondent no.5 is an assignee of the original mortgagee and is seeking to enforce its rights in respect of its secured asset.

According to the respondent no.5, the writ petitioner is not the owner of the property. Counsel for the petitioner submits that there are proceedings instituted by the Central Bureau of Investigation against the principal borrower. In the above circumstances, the question of any further police enquiry into the matter, therefore, does not and cannot arise.

Insofar as the prayer for interference with the order passed under section 14 of the SARFAESI Act is concerned, this Court is of the view that the petitioner has alternative remedy under section 17 of the SARFAESI Act, 2002 before the learned Debts Recovery Tribunal.

In the above circumstances, this Court is not inclined to entertain this writ petition. Liberty is, however, reserved for the petitioner to approach the learned Debts Recovery Tribunal in accordance with law to agitate his grievances against the respondents.

With the above directions, the writ petition stands disposed of.

(RAJASEKHAR MANTHA, J)