

Ct. 05
Item No.21
28.02.2023
(Suvendu)

WPA 179 of 2023

**Asset Reconstruction Company
(India) Limited (ARCIL)
Vs.
The State of West Bengal and Ors.**

Mr. Anuj Singh
Ms. Trinisha Dey
Ms. Kasturi Dasgupta
.....for the petitioners

Ms. Piyali Sengupta
Mr. R. Das
.....for the State

The petitioner seeks direction on the concerned District Magistrate to dispose of an application made by the petitioner under Section 14 of the SARFAESI Act, 2002.

Learned counsel appearing for the petitioner submits that the District Magistrate by a letter dated 13.06.2022 informed the petitioner that a Possession Order was issued on 04.06.2013 in connection with a borrower.

Learned counsel appearing for the State hands up an order dated 30.01.2023 passed in Misc. Appeal No. 14 of 2020 by the Additional District Judge, 1st Court, Sealdah whereby the Bank was directed to refrain from taking any steps

with regard to possession of the property till disposal of the Misc. Appeal. Counsel does not have any other particulars with respect to the order placed before the Court including the details of the plaintiff, the reliefs claimed in the Suit and the identity of the appellant.

Learned counsel appearing for the petitioner attempts to throw light on this order by stating that the borrower filed the Suit before the Sealdah Court and also filed the appeal without notice to the Bank.

Upon considering the materials placed before the Court, the petitioner should go before the concerned Court and seek an appropriate remedy. The writ court cannot pass any order on the District Magistrate when there is a pending Suit filed by the borrower and an order was obtained by the borrower against the Bank.

WPA 179 of 2023 is disposed of in terms of the above.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)