

Ct. 05
Item No.10
17.02.2023
(Suvendu)

WPA 3624 of 2023

**Sri Sajal Kumar Chakraborty & Anr.
Vs.
The State of West Bengal and Ors.**

Mr. Siddhartha Banerjee
Mr. Subrata Saha
Mr. Debdutta Raha
Mr. Abhik Biswas
Ms. Jyoti Raouth
.....for the petitioners

Mr. Vivekananda Das
Mr. Sk. Selim Malik
.....for the private respondent nos. 6-8

Mr. Arif Ali
.....for the respondent nos. 14 & 15

Mr. Abhiroop Dhar
.....for the respondent nos. 10 & 11

Mr. Debasish Ghosh
Mr. Domingo Gomes
.....for the State

The petitioner seeks urgent relief against a Notice affixed on the wall of the petitioner's residential flat on 7th February, 2023. The writ petition was filed on 13th February, 2023.

Learned counsel appearing for the petitioners submits on instructions that the urgency arises from the fact that the police visited the petitioners' property on 7th February, 2023 and threatened to take possession of the property

today, i.e. 17th February, 2023. Counsel claims that although the Notice, affixed on the wall of the petitioners' residential flat, is dated 10th November, 2020 but signed on 22nd September 2021. Counsel further submits on instruction that the petitioners received the Notice on the date of the affixation, which is 7th February, 2023. Counsel places the relevant paragraphs of the writ petition where this has also been pleaded.

The basis of the relief sought for is that the petitioners approached the Debts Recovery Tribunal III, Kolkata after 7th February, 2023 (the date has not been mentioned in the writ petition) but were unable to take steps since the Registrar of the DRT did not accept the petition on the ground of the statutory time period under Section 17(1) of the SARFAESI Act, 2002 having long elapsed. Counsel since seeks limited protection.

The other respondents are represented except the respondent Bank. The affidavit of service is taken on record. Counsel appearing for the petitioners further submits that the Bank was informed that the matter will be listed today.

After hearing learned counsel for the parties, WPA 3624 of 2023 is disposed of by directing the concerned DRT to accept the filing of the application under the provisions of the

SARFAESI Act. The aforesaid relief shall be subject to the petitioners' moving the DRT by 21st February, 2023 upon notice to the respondent – Bank. The DRT shall consider all the points including the maintainability of the application under Section 17(1) of the SARFAESI Act. The Bank shall not take any steps until the petitioners move the DRT for appropriate relief which shall not be beyond 23rd February, 2023.

It is made clear that the order has been passed only on the basis of counsel appearing for the petitioners submitting that the petitioners were served with the order of the District Magistrate on 7th February, 2023 despite the order being passed on 22nd September, 2021. It is also made clear that this Court has not gone into the merits of the matter.

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

(Moushumi Bhattacharya, J.)