

13<sup>th</sup> February, 2023  
(D/L No.20)  
(SKB)

**W.P.A. 4934 of 2022**

Kotak Mahindra Bank Limited and another  
Versus  
The State of West Bengal and others

Mr. Subhankar Nag,  
Mr. Sayak Ranjan Ganguly  
Ms. Srijani Ghosh  
... for the petitioners.

Mr. Asish Kumar Guha,  
Mr. Naren Ghosh Dastidar  
... for the State.

Mr. Debashis Karmakar,  
Mr. Parikshit Lakhotia  
... for the respondent nos.6 & 7.

The petitioners are Kotak Mahindra Bank Limited and seek a direction on the State respondents, particularly the District Magistrate, Hooghly, to forthwith take physical possession of the property which is the subject matter of dispute.

The affidavit-in-opposition filed by the respondent nos.6 and 7, being the private respondents, discloses an order dated 6<sup>th</sup> June, 2009 which is essentially a decree granted *ex parte* against the defendant. The defendant in the said order is Citi Bank. The Title Suit was filed by the private respondents.

The petitioners claim that the debt was assigned by the Citi Bank in favour of the petitioners in 2012.

The petitioners, through learned counsel, now

seek to challenge the decree and obtain an order for possession of the secured asset from the writ court. This cannot be done.

First, the petitioners should have approached the court in Hooghly to get itself added as a party and have the decree challenged. Second, the order/decreed was of 6<sup>th</sup> June, 2009 and the debt was assigned to the petitioners in 2012 while the writ petition was filed in March, 2022. Even though, the writ petitioners claim to have been made aware of the decree much later, the writ court is not the proper forum for a challenge to the decree, which has been placed from June, 2009 onwards.

W.P.A.4934 of 2022 is accordingly dismissed without any order as to costs.

Needless to say, the petitioners shall have liberty for approaching the proper forum for appropriate relief.

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**(Moushumi Bhattacharya, J.)**