

Ct. 05
Item No.13
18.04.2023
(Suvendu)

WPA 7941 of 2023

**Nirmal Kanti Chowdhury
Vs.
State Bank of India & Ors.**

Mr. Debashis Ghosh
Mr. Subit Majumdar
Mr. Subhajit Roy
.....for the petitioner
Mr. Nilotpall Chatterjee
Mr. Amritlal Chatterjee
.....for the State
Mr. S. Pal Choudhuri
Mr. S. Biswas
Ms. Diya Nandi
.....for the Bank

The petitioner seeks a declaration that the Notice of Possession dated 23rd March, 2023 issued under Section 13(4) of the SARFAESI Act, 2002 is without jurisdiction. The petitioner seeks an order canceling the Notice of Possession.

Although learned counsel appearing for the petitioner submits that the writ court has been called upon to declare the invocation as bad since there was no secured asset at the time of invocation, this Court is inclined to go into that question, the petitioner has an alternative statutory remedy under Section 17(1) of the SARFAESI Act, 2002 and the forum is available to the petitioner for urging these points. The petitioner should go before that forum.

In any event, the possession of the concerned assets has already been taken as on

23rd March, 2023. The petitioner appears to have crossed the statutory time period under Section 17(1) of the Act.

WPA 7941 of 2023 is disposed of by permitting the petitioner to go before the DRT and seek appropriate remedy within 7 days from date.

It is made clear that this Court has not gone into the merits of the case.

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

(Moushumi Bhattacharya, J.)