

23rd June,
2023
(AK)
08

W.P.A 13662 of 2023
IA No: CAN 1 of 2023
CAN 2 of 2023

Smt. Alpana Paul and another
Vs.
State of West Bengal and others

Mr. L.M. Hajra
Mr. Somesh Panja
Mrs. Anuradha Jajra
Mrs. Moutusi Hajra
...for the petitioners.

Mr. Ranajit Chowdhury
...for the respondent nos.1 & 2.

Mr. Suman Ghosh
...for the respondent nos.1 to 4.

The present petition has been preferred against an alleged illegal action on the part of the District Magistrate in passing an order under Section 14 of the SARFAESI Act, 2002 in favour of the respondent-Bank.

Learned counsel for the Bank, at the outset, disputes the maintainability of the writ petition and submits that the sale certificate has already been issued on February 16, 2023.

Not only that, possession has already been taken.

That apart, even as per Annexure-P-5 at page-45 of the writ petition, summons were served on the petitioners with regard to the proceeding under Section 19(4) of the

Recovery of Debts due to Banks and Financial Institutions Act as well as under Rule 5(2A) of the DRT (Procedure) Rules, 1993.

As such, the present writ petition ought to be dismissed.

Upon considering the submissions of parties, it is clear that the petitioners have themselves submitted that they have been ousted from the property-in-question, although valuable goods, according to the petitioners, are lying in the disputed property.

Be that as it may, apparently possession has already been taken by the respondent-Bank in pursuance of the law and a sale certificate with regard to the property has been issued as long back as on February 16, 2023, a copy whereof is handed over today in court as well as to the learned Advocate appearing for the petitioners.

Moreover, it *prima facie* appears that summons was served on the petitioner with regard to the proceeding under Section 19(4) of the Act in due process of law.

As such, there is no scope of interference under Article 226 at the present juncture.

However, nothing in this order shall preclude the petitioners from approaching the appropriate tribunal and/or before any other forum, if available in law, with the grievances as raised in the present writ petition.

WPA 13662 of 2023, along with the connected applications, are accordingly disposed of in the light of the above observations.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)