

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 14787 of 2023

**Anirban Pal Chowdhury & Anr.
-Vs.-
State of West Bengal & Ors.**

**For the petitioners : Ms. Sutapa Sanyal,
Ms. Sayani Gupta**

**For the State respondents : Mr. Chandi Charan De, Ld. A.G.P.
Mr. Sadhan Halder**

Heard & Judgment on : 08.08.2023

Bibek Chaudhuri, J.

The question that is raised in the instant writ petition is as to whether the petitioners have the title over the case property. Secondly, if it is found that the petitioners have the title, can BL & LRO mutate the name of the subsequent purchaser in the record of rights who purchased the case land in a recovery proceeding instituted by the Debt Recovery Tribunal.

It is the case of the petitioners that the petitioners took loans from three Banks. In respect of subsequent loans, these were by deposit of title deeds. The first Bank instituted a recovery proceeding by filing an application before the Debt Recovery Tribunal. The Debt Recovery Tribunal passed the decree. The decree was put in

execution. In execution the property in question was sold out under the provision of the SARFAESI Act to the private respondent. The private respondent made an application for mutating his name in respect of the record of rights. The petitioners have also filed a supplementary affidavit stating, *inter alia*, that the petitioners filed an objection before the BL&LRO but the said objection was not considered.

At this stage Mr. De, learned Additional Government Pleader has joined the issue that the said objection was duly considered by BL&LRO in appropriate proceeding for mutation. It is also submitted by Mr. De that the said order passed by the BL&LRO directing the objection of the petitioners is an appellable order under Section 54 of the West Bengal Land Reforms Act.

It is not in dispute that the private respondent is the subsequent purchaser in a recovery proceeding under the SARFAESI Act. It is also not in dispute that the deeds in respect of the land in question is lying with other Banks from where the petitioners took loan on deposit of title deeds. On perusal of the entire materials-on-record this Court is of the view that the petitioners at present have no actionable claim over the property because the property is sold out under the SARFAESI Act in favour of the respondent. The petitioners also filed an application against the order of sale under the SARFAESI Act before the appropriate forum which is pending.

Having heard the learned Advocate for the petitioners and the learned Additional Government Pleader and considering the entire record of the case as well as the documents submitted on behalf of the State respondents, I do not find any case in favour of the petitioners and, accordingly, the instant writ petition is summarily

dismissed. However, if the petitioner has any right under the West Bengal Land Reforms Act, they can take appropriate step before the appropriate forum.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 04.