

03.07.2023
Court No.13
Item No.11
AP

WPA 15283 of 2023

**State Bank of India
Vs.
State of West Bengal and Ors.**

Mr. Pijush Kanti Ray

...For the Petitioner.

Mr. Amitesh Banerjee, Senior Advocate
Mr. Tarak Karan

...For the State.

Mr. Dipanjan Datta
Mr. Subhajit Chowdhury
Ms. Tanusree Bag

...For the Respondent No.9.

1. The petitioner is a nationalized bank and had obtained an order under section 14 of the SARFAESI Act, 2002 to get physical possession of its secured assets. Costs had been deposited for police assistance in obtaining physical possession, on 11th February, 2020. The police have not been able to render such assistance.

2. Mr. Amitesh Banerjee, learned senior counsel for the State, submits that in view of the ensuing Panchayat Elections, the police may not be able to assist the petitioner at this stage. They would do so after the elections are over.

3. Counsel for the private respondent No.9 submits that he has absolutely no connection whatsoever with the petitioner. He is the lawful owner of the secured assets and he has physical possession of the same.

4. Counsel for the private respondent No.9 further submits that his client has filed a civil suit in which injunction has been declined and appeal is pending. A complaint has been filed by his client, which has been registered as FIR No.61/2019 by the Barasat Police. It is also submitted that his client's signature is not there in any of the loan documents.

5. This Court is of the view that the remedy of the private respondent, if at all, is under section 17 of the SARFAESI Act, 2002.

6. Subject to any orders that may be passed by the concerned Debts Recovery Tribunal under the provisions of the SARFAESI Act, 2002, the Superintendent of Police, Barasat shall cause the Barasat Police Station to render all assistance to carry out the orders of the District Magistrate under section 14 of the SARFAESI Act, 2002 dated 27th December, 2018 and hand over the physical possession of the secured assets to the writ petitioner/bank on 22nd July, 2023 at 2 pm.

7. With the aforesaid directions, the writ petition is disposed of.

8. There shall be no order as to costs.

9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)