

17th October,
2023
(AK)
07

W.P.A 16415 of 2023

Aadhar Housing Finance Limited
Vs.
State of West Bengal and others

Mr. Pratip Mukherjee
Mr. Arijit Ghosh

...for the petitioner.

Mr. Jayanta Samanta
Ms. Indu Mouli Banerjee

...for the State.

1. Affidavit-of-service filed in court today be kept on record.
2. The grievance of the petitioner/Financial Company is that in general, Magistrates having power under Section 14 of the SARFAESI Act, 2002 in this State, particularly in the district North 24-Pargnas, are postponing applications under Section 14 of the SARFAESI Act, 2002 to dates beyond even the statutory period of completion of the same.
3. The same, it is argued, is *de hors* the very purpose and fabric of the statute, which ensures speedy trial.
4. A chart indicating such delay in several cases has been given in paragraph no.12 of the present writ petition citing different cases where even the first date is being fixed beyond six months, which is much beyond the statutory period of disposal of such applications.

5. There cannot be any rhyme or reason for such conduct on the part of the Magistrates, since the contemplation of Section 14 is not a fresh adjudication.

6. The Magistrate has only to ascertain whether the ingredients stipulated in the said section find place in the affidavit and there is no scope of fresh adjudication of the rights of parties.

7. The present case is a glaring example of such conduct.

8. Since according to the petitioner, no steps have been taken by the borrower in this case under Section 17 of the SARFAESI Act before the concerned tribunal, WPA 16415 of 2023 is disposed of by directing respondent no.2, the Chief Judicial Magistrate at Barasat, to dispose of the petitioner's application under Section 14 of the SARFAESI Act at the earliest, positively within November 24, 2023.

9. It is expected that the Magistrates in the District of North 24 Parganas and otherwise shall strictly adhere to the principles incorporated in the SARFAESI Act in general and Section 14 of the said Act in particular, and desist from granting long adjournments in applications under Section 14 of the said Act.

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.)