

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No.8701 of 2024

Canara Bank & Anr.
Vs.
The District Magistrate & Ors.

Mr. Farooque Ali,
Mr. Asgar Ali,
Mr. Faizan Md. Zafar
... for the petitioners

Mr. Himadri Sekhar Chakraborty,
Ms. Susmita Saha
...for the State

1. On the prayer of learned counsel for the petitioners, leave is granted to the learned advocate on record for the petitioners to amend the cause title of the writ petition by introducing the designation of the respondent no. 6 as Executive Magistrate.
2. Such amendment shall be carried out here and now.
3. The grievance of the petitioner no.1-Bank is that despite having obtained orders from the District Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the District Magistrate having

designated a particular Executive Magistrate to execute the said order by granting possession to the Authorised Officer of the Bank, the Executive Magistrate is delaying the matter, in the process having already adjourned the matter at least thrice.

4. Learned counsel for the State hands over a copy of written instructions where it is indicated that the Executive Magistrate is apparently denying executing the decree in view of “a lady having come up and stated”, by handing over certain documents, that the whole land and building was already mortgaged under State Bank of India.
5. It is unheard of that the Executive Magistrate can do so, since even the power of the District Magistrate under Section 14 of the 2002 Act is extremely limited and administrative in nature. The District Magistrate himself does not have the authority to go beyond the order passed by the Tribunal and/or the measures taken by the Bank under Section 13(4) of the 2002 Act and independently adjudicate the issues involved. The Executive Magistrate’s job is merely to implement the order under Section 14 of the 2002 Act as per the direction of the District Magistrate and she does not have the authority

in law to enter into any dispute regarding the property whatsoever.

6. Accordingly, W.P.A. No.8701 of 2024 is disposed by directing the respondent no. 6 to immediately give the possession of the subject property to the petitioners in compliance with the order passed by the respondent no. 1 under Section 14 of the 2002 Act, that is, the District Magistrate, South 24-Parganas, positively within a fortnight from the date of communication of this order to the respondent no. 6.
7. The parties shall act on the server copy of this order for compliance without insisting upon prior production of a certified copy thereof.
8. There will be no order as to costs.
9. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)