

27.09.2024
Court No.09
Item no.13
CP

WPA No. 9107 of 2024
With
CAN 1 of 2024

Taiyab Ali Sardar
Vs.
Union of India & ors.

Mr. Bijoy Adhikary
Mr. Ganesh Patra
Ms. Susmita Adhikary
....for the petitioner.

Ms. Soni Ojha
Ms. S. B. Chatterjee
....for the respondent no.2.

The order impugned is an appealable order. This court is required to protect the petitioner to a certain extent so that the receiver cannot enter the house with the police authorities to make the inventory as directed by the Debts Recovery Tribunal – I, Kolkata on September 3, 2024. Admittedly, the petitioner is in possession of the property and the notice of the proceeding was not served when such order was passed.

In my view, the order affects the petitioner's privacy and also the right to contest the application for appointment of receiver. With regard to the interim order restraining the defendants from disposing of the properties and the assets disclosed as per para 3A Row (ii) page 11 to 12 and of the

Schedule of the property which appears at page 37 of the O.A. No.396/2024, pending the hearing and disposal of the application for attachment of properties, this court does not deem it necessary to interfere.

The direction upon the defendant to disclose particulars of the properties or assets other than the properties and assets specified in the said application by way of an affidavit before the learned Registrar, is also not interfered with.

If the petitioner is aggrieved by the above directions, the petitioner can approach the appellate forum. However, this court finds that by an ex parte interim order a receiver was appointed to enter into the property with the help of the local police and make an inventory.

This, in my prima facie view, should have been done upon giving one opportunity to the petitioner to contest. In any event, the order is an appealable order. On the ground of violation of natural justice, the direction upon the receiver is stayed for a limited period till the petitioner can approach the appellate authority.

Thus, the petitioner is at liberty to prefer an appeal within 10 days from date before the appropriate forum and the direction upon the receiver to enter into the property with the help of the

police and make an inventory shall remain stayed upto November 12, 2024, or until further order of the appropriate forum, whichever is earlier, subject to the undertaking given by the learned advocate-on-record for the petitioner that the petitioner shall not in any way deal with, remove or part with the assets within the properties mentioned in the order till such time.

The writ petition is disposed of accordingly. Accordingly, CAN 1 of 2024 is also disposed of.

The matter will proceed before the learned DRT-I, Kolkata on other issues.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)