

3rd May,
2024
(AK)
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W.P.A 11491 of 2024

Ashiruddin Mondal
Vs.
Punjab National Bank and others

Mr. Sukanta Ghosh
Mr. Arghya Chatterjee
...for the petitioner.

Mr. Abhishek Banerjee
Ms. Parna Roy Choudhury
Ms. Sucheta Pal
...for the respondent-Bank.

1. Affidavit-of-service filed in court today be kept on record.
2. Learned counsel for the petitioner argues that the respondent-Bank is seeking to take possession of the property of the petitioner which is not part of the secured assets, *de hors* the law.
3. It is contended that other co-sharers of the petitioner reside in such property, whose rights shall be adversely affected if such possession is taken.
4. It is argued that the cause of action for the present writ petition arose only in the month of January this year.
5. Learned counsel appearing for the Bank submits that the remedy if any of the petitioner lay before

the Debts Recovery Tribunal which, having not been exhausted, has become time-barred.

6. That apart, it is contended that the immediate cause of action of the writ petition, that is, the sale notice issued by the Bank, has not fructified, since the sale has not gone through.
7. In any event, the Bank has taken symbolic possession long back in the year 2018.
8. Learned counsel for the petitioner submits that such symbolic possession has also been taken by including the property which is allegedly beyond the secured assets.
9. However, since symbolic possession was taken as long back as in the year 2018, the cause of action of the petitioner arose from such date.
10. A subsequent sale notice, even if issued by the Bank, cannot confer a new lease of life to the petitioner insofar as the cause of action of the present challenge is concerned.
11. In any event, the writ court is not the appropriate forum for deciding such factual disputes.
12. Since the petitioner has already lost his remedy by permitting more than five years to pass in the interregnum, the remedy as prayed in the writ petition cannot be granted.
13. Accordingly, WPA 11491 of 2024 is dismissed on contest without any order as to costs.

14. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)