

S/L 11  
16.07.2024  
Court. No. 9  
Suvayan

**WPA 11927 of 2024**

**Shibu Nandi**  
**Vs.**  
**The State of West Bengal & Ors.**

*Mr. Bikash Goswami*

*...for the Petitioner.*

*Mr. Abhishek Banerjee*

*...for the State.*

*Mr. Somnath Roy*  
*Mr. Dwaipayan Basu Mallick*  
*Mr. Joyraj Dhar*

*...for the respondent nos. 5 & 6.*

1. The petitioner is a borrower. The loan account of the petitioner became NPA. The finance company took steps under the SARFAESI Act. The petitioner approached the learned Debts Recovery Tribunal – II, Kolkata, by filing SA 851 of 2023. The said proceeding was initiated on October 11, 2023.

2. It does not appear from the writ petition that the pendency of the SA has been mentioned. The first defect in the writ petition is suppression. Secondly, the petitioner has challenged an order passed under Section 14 of the SARFAESI Act (hereinafter referred to as the said ‘Act’) passed by the Additional Chief Judicial Magistrate, Durgapur. The said order is assailable in the proceeding pending before the learned tribunal. Finally, the writ court cannot direct the financier to accept the money against the outstanding dues as per the calculation of the petitioner. Even if the petitioner is of the firm view that the money claim

was improper and not properly calculated by the financing company, the petitioner can raise such objection also before the tribunal.

3. The petitioner may approach the tribunal on an urgent basis, by filing a put up petition.

4. Under such circumstances, the writ petition is dismissed.

5. However, there will be no order as to costs.

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

**(Shampa Sarkar, J.)**