

6<sup>th</sup> May,  
2024  
(AK)  
17

**W.P.A 12710 of 2024**

Srimonta Karmakar and another  
Vs.  
Punjab National Bank and others

Mr. Md. Harun All Rashid  
Mr. Azizul Islam

...for the petitioners.

Ms. Sabnam De Bardhan  
Ms. Rupsha Chakraborty

...for the State.

1. Affidavit-of-service filed in court today be kept on record.
2. Learned counsel for the petitioners submits that the petitioners are agriculturists. They approached the respondent-Bank allegedly for credit facilities and deposited an amount to the tune of more than 18 lakhs.
3. However, although the Bank was to provide Agro Missionary for the Custom Hiring Project of the petitioners, the Bank sent its own representative, one Bhagirathi Agro Missionary.
4. However, subsequently the Bank did not perform its duties through the said agent or otherwise but a SARFAESI proceeding was initiated against the petitioners.

5. It is submitted that without providing the credit facility to the petitioners, the SARFAESI action itself is bad in law and without jurisdiction.
6. It is seen from the affidavit-of-service that although the State is represented, the other respondents have not yet been served.
7. Be that as it may, the petitioners have an equally, if not more, efficacious alternative remedy in the form of an adjudication under Section 17 of the SARFAESI Act, 2002 before the concerned tribunal.
8. The said remedy would be more efficacious than the writ petition in view of the tribunal having the liberty to enter into disputed questions of fact and look into documents and other materials, if so necessary to ascertain the contention between the parties.
9. Hence, WPA 12710 of 2024 is disposed of by granting liberty to the petitioners to approach the concerned Debts Recovery Tribunal with a challenge under Section 17 of the SARFAESI Act on the issues as raised in the present writ petition and/or other issues if raised by the petitioners over and above the same.
10. It is made clear that the merits of the contentions of the parties have not been gone into by this court and it will be open to the tribunal to decide all questions in accordance with law in due process.

11. There will be no order as to costs.
12. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**