

21st May,
2024
(AK)
04

W.P.A 13407 of 2024

State Bank of India and another
Vs.
State of West Bengal and others

Mr. Debashis Saha
...for the petitioners.

Mr. Syed Nazrul Hossain
Mrs. Amrita Tewari
...for the State.

Mr. Bhaskar Dutta Gupta
...for the private respondents.

1. On the prayer of learned counsel for the petitioners, the learned Advocate for the petitioners is granted liberty to amend the cause title of the writ petition to the effect that the designation of the District Magistrate and the concerned District be amended.
2. Such amendment shall be carried out during the course of the day.
3. Learned counsel for the petitioner-Bank submits that in the impugned order of the District Magistrate, while deciding an application under Section 14 of the SARFARSI Act, 2002, the District Magistrate inserted a rider to the effect that it was a provisional order subject to final approval of DRT-II, Kolkata.

4. It is submitted that there is no provision in the statute for passing a provisional order or any further approval by the DRT-II.
5. The petitioners argue that the purpose of the statute is to reduce unnecessary intervention of courts and as such, the said portion of the order should be set aside.
6. Learned counsel appearing for the private respondents submits that the private respondents have in the meantime approached the Bank for a one time settlement of the debt.
7. However, such approach by the private respondents at a belated stage does not and cannot have any bearing on the process contemplated under Section 14 of the SARFAESI Act, 2002.
8. Insofar as the last paragraph of the impugned order of the Magistrate is concerned, the same is palpably *de hors* the law since there is no scope of any provisional order or further approval by the concerned tribunal within the four corners of Section 14 of the SARFAESI Act, 2002.
9. However, before parting with the matter, this court expresses its appreciation for the sensitivity exhibited by the Magistrate in observing in the order that if any dwelling house figures in the list of assets, utmost care should be taken particularly for

ousting the female members, sick or old persons and children.

10. It is expected that the authorities shall keep in mind the said observations while implementing the order under Section 14 of the SARFAESI Act, 2002.
11. Be that as it may, in view of the above observations, WPA 13407 of 2024 is disposed of by modifying the impugned order of the District Magistrate, Hooghly dated March 13, 2024 by deleting the last paragraph thereof where it was observed that a provisional order is issued subject to final approval of DRT-II, Kolkata.
12. It will be deemed that the said order is a final order under Section 14 of the SARFAESI Act and shall be implemented by the appropriate authorities including the police in accordance with law.
13. It is made clear that nothing in this order shall prevent the Bank from entering into a settlement with the private respondents in the event the Bank so deems fit in its commercial prudence.
14. There will be no order as to costs.
15. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)