

08.08.2024
Sl. No.13(DL)
srm

W.P.A. No. 17185 of 2024
Aadhar Housing Finance Limited
Versus
State of West Bengal & Ors.

Mr. Pratip Mukherjee,
Mr. Arijit Ghosh,
Mr. Rahul Modak,
Mr. Koushik Roy,
Ms. Sangita Ray,
Ms. Taniya Khatun

...for the Petitioner.

Mr. Abhijit Belel,
Mr. P.K. Ray

...for the Respondent Nos.3 & 4.

The petitioner approached the learned Chief Judicial Magistrate, Barasat, North 24-Parganas, under Section 14 of the SARFAESI Act. It is alleged that the proceeding is pending since long, before the said court.

Learned Advocate for the respondent Nos.3 and 4 submits that the SARFAESI proceeding are already pending before the Debts Recovery Tribunal being SA No.118 of 2023.

The petitioner is a non-banking financial institution.

This Court is of the view that the power of judicial review under Article 226 of the Constitution of India does not include

directions upon a judicial officer as to how he should proceed with the matter.

However, the petitioner is granted liberty to approach the District Magistrate, North 24-Parganas, by filing a fresh application under Section 14 of the SARFAESI Act with all necessary documents, upon withdrawal of the proceedings which have been initiated before the criminal court.

The District Magistrate, if approached, will dispose of the matter positively within sixty days from the date of receipt of the petitioner's application, subject to the condition that all requirements of law are complied with.

This order does not prevent the borrower from taking appropriate steps, once the order by the District Magistrate is passed under Section 14 of the SARFAESI Act.

The writ petition is, thus, disposed of.

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.)