

15.07.2024
Court No.09
Item no.19
CP

WPA No. 17768 of 2024

Mainuddin Ahammad
Vs.
The Union of India & ors.

Md. Harun All Rashid
Mr. Azizul Islam
Ms. Nibedita Chakraborty
....for the petitioner.

Mr. Nilanjan Bhattacharjee
Mr. Sachit Talukdar
....for the Union of India.

The petitioner is aggrieved by certain steps that have been taken by the bank/secured creditor after the petitioner's account became NPA. The petitioner has challenged an order of the Additional District Magistrate dated June 14, 2023 passed under Section 14 of SARFAESI Act. The petitioner has an alternative remedy under Section 17 of the SARFAESI Act. The petitioner also submits that both the bank and the petitioner had availed of the respective alternative remedies before the tribunal. It is further stated that an OTS proposal had been made by the petitioner and talks were going on. The bank should be restrained from taking over possession.

Under such circumstances, the question of the writ court entertaining any prayer whatsoever, would

not arise. The petitioner has an alternative remedy, which the petitioner has already availed of, by filing SA 154 of 2022. The bank has filed OA 80 of 2022. The writ court cannot compel the bank to enter into the OTS with the petitioner. The OTS proposal has been returned by the bank.

Accordingly, the writ petition is disposed of. If the petitioner has any grievance he may proceed in accordance with law before the appropriate authority.

There shall be no order as to costs.

All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)