

July 11, 2024
Sl. No.15
Court No.9
s.biswas

WPA 17759 of 2024

Rakhi Sardar
vs.
State of West Bengal and others

Mr. Souri Ghosal

... for the petitioner

Mr. Debasish Saha

Ms. Sucheta Pal

... for the respondent bank

Mr. K. J. Yusuf, AGP

Mr. Parikshit Goswami

... for the State

1. Affidavit of service is taken on record. Despite service, none appears for the respondent no.5.
2. The petitioner is the wife of the borrower, with whom the petitioner has a matrimonial dispute. The petitioner allegedly resides in the mortgaged property. The loan account of the borrower was declared NPA on July 31, 2019. The bank issued notices under Sections 13(2) and 13(4). The petitioner initiated proceedings before the DRT. The petitioner obtained an interim order restraining the bank from dispossessing the petitioner. Ultimately, on the application of the bank, the order of dispossession was set aside. The petitioner did not contest the proceedings. Neither did the petitioner prefer any appeal. When the bank affixed a notice indicating that the possession will be taken on July 11, 2024, the petitioner approached the writ court.

3. Admittedly, the bank has not acted without jurisdiction. The order of stay had been vacated by the DRT. The said order is not under challenge. The petitioner has initiated proceedings under the Domestic Violence act and has prayed for an alternative accommodation.
4. The petitioner has claimed maintenance under Section 125 of the Cr.P.C. Maintenance was awarded, but not paid. The respondent no.5/husband failed to pay maintenance and warrant of arrest has been issued.
5. Reliance has been placed on page no.68 of the writ petition, which indicates that the Judicial Magistrate, 1st Class, Municipal Court had issued the warrant. The police authorities are represented.
6. This court finds that the criminal investigation against the husband ended in a charge-sheet. The husband is a teacher of a school at Howrah.
7. It is submitted by Mr. Saha, learned advocate for the bank, on specific instruction, that the officials of the District Magistrate had taken possession of the flat and the possession has been handed over to the bank. It is further submitted that the petitioner was not found in the premises. The premises was vacant. An inventory of the articles has been made.

8. Thus, the writ petition is disposed of with the following directions:

- a) An inventory shall be made of the articles belonging to the petitioner, if not already made. The articles shall be kept in a proper storage facility, so that the goods do not sustain any damage. The petitioner is at liberty to claim her belongings immediately, and not later than three weeks.
- b) The learned court before which the domestic violence case is pending, shall decide the issue of grant of alternative accommodation, in accordance with law, without being influenced by this order.
- c) The police authority shall ensure compliance of the order dated June 25, 2024, passed by the learned Judicial Magistrate, 1st Class, Municipal Court, Howrah in M Ex 295 of 2018, and take all necessary steps before the learned court on the next date.

9. The writ petition is accordingly disposed of.

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

(Shampa Sarkar, J.)