

04.07.2024
Ct. No. 09
Item No.124
Cp

WPA No. 17164 of 2023

Sri Alam Hossain & Anr.
Vs.
Shriram Housing Finance Limited & ors.

Mr. Sukanta Ghosh

....for the petitioners.

Mr. Avishek Prasad

.....for the State.

Despite service, none appears on behalf of the respondent nos. 1 and 2, the non-banking financial institution.

The petitioner complains that although the order under Section 14 of the SARFAESI Act was passed by the District Magistrate in respect of the mortgaged property, the bank was threatening to take possession of other properties of the petitioners which is not a part of the order of the District Magistrate.

It is settled law that unless there are specific orders by the appropriate authority as per the SARFAESI Act or the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 attaching other properties of the secured borrower, the said properties cannot be taken over by the bank. Thus, the respondent/non-banking financial institution shall proceed in accordance with law and restrict its

actions strictly in respect of the order passed by the District Magistrate.

This order shall not be construed as any declaration of this court with regard to the identity of the property of the petitioners which the petitioners allege is being wrongly taken over by the bank. The bank is at liberty to taken steps in accordance with law.

The writ petition is accordingly disposed of.

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.)