

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 09.09.2024

DELIVERED ON: 09.09.2024

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**F.M.A. 967 of 2024
With
I.A. No. CAN 1 of 2024**

**M/s. HDS Steel Traders Private Limited & Anr.
Vs.
State of West Bengal & Ors.**

Appearance:-

**Mr. Jayanta Mitra, Sr. Adv.
Mr. Arnab Chakraborty
Ms. Pragya Bhowmick**

.....for the appellants

**Mr. Abhishek Banerjee
Ms. Parna RoyChowdhury**

.....for the respondents/Bank

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal is by some unsuccessful writ petitioners, wherein the appellants have sought for a direction upon the District Magistrate to dispose of the application filed by the respondents/bank viz., the Punjab National Bank under section 14(1) of the SARFAESI Act, 2002 dated August 11, 2023.

2. The learned Single Bench has dismissed the writ petition with costs. In our considered view, the appellants could not have saddled with costs as the appellants, being auction purchasers and the application filed under section 14(1) of the SARFAESI Act by the respondents/bank having not been disposed of by the District Magistrate, the appellants being aggrieved, as they have paid the entire purchase price, had moved the Court.
3. Therefore, the *boa fides* of the appellants cannot be questioned and we are of the view that this is not a case, where costs should be imposed. Accordingly, the appeal is allowed. The order passed in the writ petition is set aside.
4. As pointed out earlier, the writ petition was for an innocuous prayer at the instance of the auction purchasers in an e-auction conducted by the Punjab National Bank in respect of the property in question. Having been declared as the successful purchasers in the auction, the appellants have not been handed over possession of the property by the respondents/bank. It appears, the respondents/bank had filed an application under section 14 of the SARFAESI Act, which was rejected/disposed of on account of certain clarifications, which were required.
5. The learned advocate appearing for the respondents/bank submitted that thereafter the second application has been filed, in which it is stated that the required clarifications were given but the same was also rejected by the learned District Magistrate. It is thereafter, the third application has been filed on August 11, 2023, which is still pending before the District Magistrate.

6. In the light of the above, without going into the merits of the matter, we direct the District Magistrate of the Howrah District, the 2nd respondent herein to dispose of the said application dated August 11, 2023 after notice to the writ petitioners/auction purchasers, the 3rd respondent viz., the Punjab National Bank and the borrower, who had mortgaged the said property with the respondents/bank, who is the 7th respondent in this appeal.
7. Though the respondent nos. 1 and 2 have been served and affidavit of service has been filed, there is no appearance from the side of the Government counsel representing the respondent nos. 1 and 2. However, considering the fact that the matter is being directed to be disposed of by the District Magistrate, we deem it appropriate to dispose of the writ petition and the appeal with the following directions:
8. The District Magistrate is directed to dispose of the application dated August 11, 2023 filed by the respondents/ bank under section 14 of the SARFAESI Act and also the application filed by the appellants on December 28, 2023, which was presented in the office of the District Magistrate, Howrah on the same date, as could be seen from the date seal.
9. After issuance of notice to all the parties concerned, the District Magistrate shall consider and pass appropriate orders on merits and in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date on which server copy of this order is presented in the office of the District Magistrate.
10. In order to effectuate compliance of these directions, the authorised representative of the appellants is directed to appear in person in the office

of the District Magistrate and submit copies of the application filed by the bank, the copy of the application filed by them as well as the copy of this order to enable compliance of the above directions.

11. No costs.
12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

Pallab/KS AR(Ct.)