

Item No.8
12.08.2024
Court. No. 9
GB

W.P.A. 18934 of 2024

Shila Das

Vs.

Additional Chief Judicial Magistrate,
Serampore, Hooghly & Ors.

*Mr. Snehatosh Majumder,
Mr. Amar Nath Ghosh,
Mr. Sattwik Majumder,
Mr. S. Das*

...for the Petitioner.

*Ms. Soni Ojha,
Ms. Sambrita B. Chatterjee*

...for the Respondent No.3.

The petitioner moves this application alleging that the bank had proceeded under Section 14 of the SARFAESI Act and procured an order from the learned Additional Chief Judicial Magistrate, Serampore, Hooghly with regard to property beyond the secured assets. The property exclusively belonged to the petitioner and the same was not mortgaged.

The learned advocate for the bank submits that the sons had mortgaged 'B' scheduled property and steps were taken only in respect of such property only. The property is described below:-

**"KHA (B) SCHEDULE PROPERTY
(Property hereby gifted)"**

Under the Ka Schedule property one shop room having a super built up area 485 sft. More or less out of total area 1454 Sft. To the extent of 1/3rd share constructed upon the "A" Schedule property, comprised of R.S. Dag Nos. 5911, 5912 and 5915 and under R.S. Khatian Nos.3738, 3788 and 3801 corresponding tok L.R. Dag No.6312, L.R. Khatian Nos. 28318, 18319 and 28320, Mouza Serampore, J.L. No.13, being holding No.91/92/F, Kumirjala Road (Raja Ram Mohan Roy Sarani), under

Serampore Municipality, P.S. & A.D.S.R. Office
Seramore, Dist. Hooghly.”

The property was gifted by the petitioner to her sons. Copy of the gift deed and copy of the memorandum of deposit of title deed/gift deed have been produced before this Court, which mentions the said property.

Under such circumstances, this Court is not in a position to pass any orders save and except to restrict the order under Section 14 of the SARFAESI Act to the secured asset. However, if the petitioner is aggrieved by the order passed by the learned Additional Chief Judicial Magistrate under Section 14 of the said Act with regard to certain observations or quantum etc., the petitioner is at liberty to approach the Debts Recovery Tribunal, in accordance with law.

The issue of limitation has not been gone into and the learned Debts Recovery Tribunal if approached, will decide such issue as well.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)