

D/L. 7 & 8.
January 31, 2024.
MNS.

WPA No. 21897 of 2023

State Bank of India and another
Vs.
The State of West Bengal and others
With
WPA No. 23381 of 2023

Mahabuba Begum
Vs.
Union of India and others

Mr. Debasish Shah,
Ms. R. Bhattacharya,
Ms. S. Das

... for the petitioners/SBI
in WPA 21897 of 2023.

Mr. Rajarshi Basu,
Mr. Ananda Dulal Sarkar

...for the State
in WPA 21897 of 2023.

Mr. Dilip Kumar Samanta,
Mr. B. P. Samanta,
Ms. Tithi Paul

...for the petitioner
in WPA 23381 of 2023 &
private respondent
in WPA 21897 of 2023.

Re: WPA No. 21897 of 2023

1. Learned counsel for the petitioner in WPA No. 23381 of 2023, who is the borrower and the private respondent in WPA No. 21897 of 2023, contends that since a challenge has been thrown to the *vires* of Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest

Act, 2002 (SARFAESI Act), a notice was directed to be given to the Attorney General. However, the petitioner in WPA No. 23381 of 2023 could not do so and only was able to make a short service.

2. Learned counsel for the petitioner-Bank presses the writ petition for early disposal of the application filed under Section 14 of the SARFAESI Act pending at the behest of the Bank.
3. Learned counsel for the State in WPA No. 21897 of 2023, as an Officer of the Court, hands over a copy of an unreported judgment of the Karnataka High Court where the *vires* of Section 14 of the SARFAESI Act was upheld. The judgement was rendered in WP No. 5990 of 2022. It is sought to be argued that within the contemplation of Article 226(2) of the Constitution of India, such conclusion is binding on this court unless the Court holds otherwise or refers the issue to a larger Bench.
4. Even without going into the issue of the *vires* of Section 14 of the SARFAESI Act, it is found that the said provision still finds its place in the Statute Book. As on the date of filing of the application under Section 14 of the

SARFAESI Act by the Bank, there was no such challenge to the *vires*.

5. Apparently, the borrower is seeking to delay the matter by challenging the *vires* to procrastinate the disposal of the Section 14 application filed by the Bank.
6. Hence, as of today, there is no impediment and a mere pending challenge to the *vires* of a provision cannot prevent the implementation of the same as of date.
7. Accordingly, WPA No. 21897 of 2023 is allowed, thereby directing the respondent no. 2, the District Magistrate, Purba Bardhaman, to dispose of the application filed by the petitioner-Bank therein under Section 14 of the SARFAESI Act as expeditiously as possible, positively within four weeks from date.
8. There will be no order as to costs.
9. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

Re: WPA No. 23381 of 2023

10. The other writ petition, that is, WPA No. 23381 of 2023, shall be listed on February 6, 2024 under the same heading.

11. The petitioner in the said writ petition shall serve further notice on the Attorney General indicating the next returnable date.

(Sabyasachi Bhattacharyya, J.)