

February 2, 2024
AD 4
Ct. No.14
SG

WPA 22553 of 2023

Canara Bank and another
vs.
The State of West Bengal and others

Ms. Jayita Roy
Mr. Subhas Chandra Sarkar
Mr. Rishav Roy
Mr. Surath Chakraborty
... for the petitioners.

Mr. Ashim Kumar Ganguly
Mr. Tarak Karan
... for the State.

Mr. P.K. Pandey
Mr. Prasenjit Das
... for the private respondents.

The order dated 19.01.2024 passed by the Debts Recovery Tribunal 1, Kolkata filed by the petitioners is taken on record.

It appears that the Tribunal had made a correction in its earlier order and mentioned that the matter was actually heard on 21.12.2023 and an order was passed on the same day. However, due to inadvertence, the order sheet mentioned 20.12.2023 mistakenly as the date of hearing. It was corrected as 21.12.2023.

Therefore, an objection given by the private respondents that since hearing took place on 21.12.023, no order could have been passed on 20.12.2023 loses any significance.

Learned advocate for the petitioners submits that the District Magistrate has already been passed an order

under Section 14 of the SARFAESI Act. The private respondents had moved the Debts Recovery Tribunal 1, Kolkata. By an order dated 21.12.2023, the Tribunal fixed a date for hearing. However, it clarified that the order dated 22.11.2022 did not remain in force as the said order was not complied with as per direction of this Tribunal. Therefore, the police ought to render necessary assistance to carry out the direction of the District Magistrate.

Learned advocate for the private respondents submits that the matter is pending before the Tribunal and a date has been fixed on 12.02.2024. As such, the order of the District Magistrate should not be carried out in the meantime.

Learned advocate for the State submits that there is no police inaction on the part of the respondent authorities. However, one Pinki Saha, a borrower has also filed a petition before the DRT in connection with the same issue.

It appears from the order of the DRT that it clarified that the order dated 22.11.2022 did not remain in force as the said order was not complied with as per the direction of this Tribunal.

Therefore, there is no impediment upon the police authorities to provide help to carry out the order of the District Magistrate.

In view of the above, the Inspector-in-Charge of Belur Police Station is directed to assist the petitioners to

take possession of the mortgaged property as per the order of the District Magistrate, Howrah.

However, the private respondents shall also be at liberty to take appropriate steps before the appellate tribunal.

With these observations, the writ petition is disposed of.

Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]