

11.11.2024
Item No.23
SG/SM
Ct. No.1

**MAT 1967 of 2024
with
CAN 1 of 2024**

**Gobinda Singha & Anr.
Vs.
Reserve Bank of India & Ors.**

Mr. Abhishek Banerjee
Ms. Parna Roy Choudhury
.....for the Appellants
Mr. Joydip Banerjee
.....for the State
Mr. Ranjit Singh
Mr. Amar Singh
Ms. Tutul Das
Ms. Kaberi Mukherjee
Mr. Ratul Banerjee
.....for the Respondent Nos.3 & 4

1. This intra-Court appeal has been filed by the writ petitioners being aggrieved by the order dated 26th of September, 2024 in WPA 24041 of 2024.
2. We have heard the learned advocates for the parties.
3. The appellants submitted before the learned Writ Court that an order has been obtained from the learned Chief Judicial Magistrate, Barasat, North 24 Parganas without mentioning that an application under Section 17 of the SARFAESI Act, has been filed by the appellants-writ petitioners before the DRT-III, Kolkata. The learned Single Bench disposed of the writ petition by granting liberty to the appellant-writ petitioners to approach the learned DRT within a

period of two weeks from the said date and till such time, further measures shall not be taken by the finance company with regard to the property in question.

4. The contention raised before us is that if the appellants, namely, the borrower was not a party to the application filed under Section 14 of the Act before the learned Chief Judicial Magistrate, Barasat and therefore, they are unable to obtain a copy of the order till date. The appellants-writ petitioners could have filed a third party application before the learned Chief Judicial Magistrate requesting for a certified copy of the order passed under Section 14 of the Act. However, that procedure has not been adopted.
5. Thus taking note of the facts, we direct the appellants-writ petitioners to file an application before the learned Chief Judicial Magistrate praying for issuing certified copy of the order passed by the said Court under Section 14 of the SARFAESI Act, which was at the instance of the respondent Nos. 2 and 3 herein, namely, IIFL Home Finance Limited and if such application is filed, the Court of the learned Chief Judicial Magistrate, Barasat, North 24 Parganas shall supply a certified copy of the order passed under Section 14 of the Act within three days from the date of such application is filed, provided the application is complete in all respects and the

requisite court fees shall also be remitted. The appellants had a benefit of an interim protection for a period of two weeks.

6. Since we have issued the above direction an interim protection granted in favour of the appellants-writ petitioners shall be in force till 20th November, 2024 and not beyond the said date.
7. With the above observations and directions, the appeal is disposed of.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)