

26th February,
2024
(AK)
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W.P.A 28976 of 2023

UCO Bank
Vs.
The State of West Bengal and others

Mr. Rahul Sarkar
Ms. Dipika Sarkar

...for the petitioner.

Mr. Ayan Banerjee
Mr. Debapriyo Chattopadhyay

...for the State.

1. The petitioner-Bank has preferred the instant writ petition alleging that even after possession was handed over to the authorized officer of the Bank under Section 14 of the SARFAESI Act, 2002, the borrower and its men and agents have again taken over unlawful possession of the property, prompting the petitioner-Bank to lodge complaints with the police authorities.
2. It is submitted that no step is being taken on the same.
3. Heard learned counsel for the petitioner and the State.
4. A perusal of Section 14 of the SARFAESI Act indicates that initially an order is to be passed by the Magistrate concerned under sub-Section (1) of Section 14 for possession to be taken and handed over to the authorized officer of the creditor.

5. Sub-Section (2) empowers the Magistrate, for the purpose of securing compliance with the provisions of sub-Section (1), to take such steps and use or cause to be used such force as may in his opinion be necessary.
6. In the present case, however, it is an admitted position that all steps were taken up to the stage of sub-Section (2) of Section 14 by the concerned Magistrate and in implementation of the order under Section 14(1), possession of the property, that is, the secured asset had in fact been handed over to the authorized officer of the Bank.
7. Thus, the Magistrate became *functus officio* thereafter.
8. On an occasion of a further transgression of the possession of the Bank by a third party, including the borrower, a fresh cause of action arose for the Bank at best to initiate a summary suit under Section 6 of the Specific Relief Act.
9. Learned counsel for the State points out that the alleged dispossession took place in the year 2021 and as such, even a suit under Section 6 of the Specific Relief Act is hopelessly time-barred.
10. It is further pointed out by learned counsel for the State that necessary action has been taken on the complaint of the petitioner by registering an FIR, which ultimately culminated in the filing of a

charge sheet and a conviction of the concerned persons.

11. Hence, there is no further scope of any direction being passed by the writ court on the prayer of the petitioner in the light of the above observations.
12. The learned Advocate appearing for the State is requested to furnish the particulars of the criminal case and the resultant conviction to his counterpart appearing for the Bank within a week from date in writing.
13. In the light of the above observations, WPA 28976 of 2023 is disposed of by keeping on record the written instruction of the State.
14. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)