

**In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**20.12.2024
SL 09
Court No. 14
BP/AGM**

WPA 30203 of 2024

**Sri Joy Bandhu Mukherjee & Ors.
vs.
Indian Bank & Ors.**

**Mr. Rudranil De.
Mr. Kallol Basu.
Mr. Nimish Mishra.
Mr. Suman Saha.
Ms. Shreejita Sen.**

... For the petitioners.

**Mr. Shiv Mangal Singh.
..For the Bank.**

**Mr. Malay Kumar Singh.
Ms. Neelam Singh.
... For the State.**

1. The petitioners are suffering orders under the SARFAESI Act. In the instant writ petition, the order of the District Magistrate, South 24 Parganas dated 4th January, 2024 followed by the communication dated 3rd May, 2024.
2. The petitioners have already approached the Debts Recovery Tribunal by filing application which is alleged to be kept pending. The petitioners are apprehensive that the police have already arrived at the spot to take physical possession of the secured asset and the petitioners may be dispossessed from the subject property today.

3. It appears that certain amount is due and payable by the petitioners to the bank.
4. The bank has produced a statement before this Court wherefrom it appears that the total outstanding dues of the petitioners in connection with the loan is Rs. 2,84,68,870/- as on 19th December, 2024 after adjustment of the sale proceeds.
5. Learned advocate for the bank has relied upon the decisions delivered by the Hon'ble Supreme Court in the matter of ***State of Maharashtra & Ors. -Vs- Greatship (India) Limited reported in (2022) 17 SCC 332*** and in the matter of ***Punjab National Bank -Vs- O.C. Krishnan & Others reported in (2001) 6 SCC 569*** and judgment dated 13th December, 2024 in the matter of ***CELIR LLP -Vs- Mr. Sumati Prasad Bafna & Ors.*** in Contempt Petition (C) Nos. 158-159 of 2024 in Civil Appeal Nos. 5542-5543 of 2023 with M.A. Nos. 600-601 of 2024 in Civil Appeal Nos. 5542-5543 of 2023 in support of the submission that the writ Court ought not to assume jurisdiction in the matter and ought not to pass any order of stay in the subject proceeding.
6. The maintainability of the writ petition has also been challenged.
7. The Court is of the opinion that as the matter is already pending consideration before the Debts Recovery Tribunal, the parties will be at liberty to agitate all issues before the Tribunal in accordance with law.

8. As the sale of the property is claimed to have taken place in the month of July 2023 and the bank intends to dispossess the petitioners today during pendency of the application before the Debts Recovery Tribunal, accordingly, in the interest of justice the bank is restrained from proceeding any further with regard to taking possession of the subject property till 31st January, 2025 or until further order whichever is earlier in the pending proceeding before the Tribunal.
9. The interim protection is being allowed only to give a breather to the petitioners to ventilate their grievance before the competent forum seeking necessary relief.
10. It is made clear that this Court has not gone into the merits of the prayer of the petitioner and all points are left open to be decided by the Tribunal.
11. The writ petition stands disposed of.
12. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)