

OD 13

WPO/1848/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RELIGARE FINVEST LIMITED
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date: 3rd January, 2024.

Appearance:
Mr. Sounak Ghosh, Adv.
Mr. Rajiv Kumar, Adv.
. . .for the petitioner.

Mr. Asif Hussain, Adv.
Mr. A. K. Ray, Adv.
. . .for the respondent.

The Court: Affidavit of service filed today be kept on record.

At the outset, learned counsel for the private respondent/borrowers takes an objection to the jurisdiction of the respondent no.2, that is, the Chief Judicial Magistrate to take up the application of the petitioner under Section 14 of the SARFAESI Act. By placing reliance on the said provision, learned counsel for the private respondents argues that the Section contemplates the application to be filed before the District Magistrate and not the Chief Judicial Magistrate. Secondly, it is argued that the provisions of Section 14 in so far as filing of an

affidavit is concerned, have not been properly satisfied in the instant case. As such, the private respondent opposes the prayer of the petitioner.

The prayer in the writ petition is innocuous. The petitioner/financial company seeks an early disposal of the application filed by it before the respondent no.2 under Section 14 of the SARFAESI Act.

In any event, this court is not the appropriate forum to decide the question of jurisdiction of the Chief Judicial Magistrate. Although it is prima facie apparent that the application was required to be filed before the District Magistrate, the respondents are at liberty to take the point of jurisdiction and maintainability before the concerned Chief Judicial Magistrate where the application is pending.

In any event, since the application is pending more than 60 days, WPO 1848 of 2023 is disposed of by directing the respondent no. 2 to dispose of the application filed by the petitioner under Section 14 of the SARFAESI Act, 2002 within three weeks from the date of communication of this order to the respondent no.2.

It is made clear that it will be open to the private respondents to take all objections, including the objection as to inherent lack of jurisdiction of respondent no.2 in taking up the matter, which will be decided first by the respondent no.2 before proceeding to decide the matter on merits, if so necessary.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

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