

AD-18
Ct No.16
04.04.2025
TN

RVW 38 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025
in
CO 592 of 2021

Sri Rudra Bhattacharya and another
Vs.
The Authorised Officer, Bank of India and others

Mr. Rudra Bhattacharya
.... petitioner no.1 (in person)

Ms. Samiddha Mondal
....for the respondents

1. The petitioner no. 1, appearing in person with the leave of court, moves the application under Section 5 of the Limitation Act for condonation of delay of about three and half years in preferring the present review application. The premise of the same is that the petitioners, upon having written to the concerned District Magistrate, pursuant to whose order the respondent-bank had taken possession of the concerned property, learnt on December 18, 2024 from the reply of the Magistrate to the query under the Right to Information Act that there was no order passed by the concerned Magistrate, that is, the District Magistrate, Barasat, North 24 Parganas on February 14, 2015 permitting the respondent-bank to take possession of the property.

2. However, I find from the annexure that the RTI query was made by the petitioners only on December 18, 2024 whereas the order under review was passed on July 15, 2021. There is no explanation whatsoever as to delay in making the RTI application after such prolonged period.
3. Even if the court proceeds on the premise that there had been discovery of new matter by way of the reply of the Magistrate to the RTI query of the petitioners, it is seen from paragraph no. 14 of the order under review dated July 15, 2021 that this court had recorded that pursuant to a specific order passed by the concerned Additional District Magistrate under Section 14 of the SARFAESI Act, 2002, possession of the concerned property at 11, M.M. Feeder Road was taken on February 14, 2015 in presence of the petitioner. Again, this court had recorded in paragraph no. 23 of the said order that it appeared from the copy of the order dated February 19, 2014 passed by the concerned Additional Magistrate under Section 14 of the SARFAESI Act, 2002, annexed at page 57 of the affidavit-in-opposition, that it was *prima facie* evident that the possession taken by the bank was not tainted by any illegality but was in accordance with law.
4. A perusal of the affidavit-in-opposition filed in connection with the civil revisional application also

corroborates such finding. Thus, the premise on which the order under review was passed was that pursuant to an order passed under Section 14 of the SARFAESI Act dated February 19, 2014, the respondent-bank took possession of the property on February 14, 2015.

5. However, the RTI query made by the petitioners asked the question whether any order under Section 14 was passed on February 14, 2015.
6. The very premise of the query was incorrect, since as per the order under review, the possession was taken on February 14, 2015 but the order under Section 14 of the SARFAESI Act was passed long back on February 19, 2014, that too, not by the District Magistrate but by the Additional District Magistrate, Barasat.
7. Hence, the document annexed to the application for condonation of delay cannot be considered to be a relevant subsequent document to come within the purview of “discovery of new matter”, as contemplated in Order XLVII of the Code of Civil Procedure.
8. Even otherwise, no case of error apparent on the face of the record has been made out by the petitioners. It is well-settled that in the garb of review, re-argument of the entire matter on merits cannot be permitted.

9. Thus, since the piece of document which has been annexed to the application under Section 5 of the Limitation Act does not come within the purview of subsequent discovery of new matter, and there is no explanation for the delay in making the query after three and half years in the first place, this court is not satisfied of the sufficiency of the explanation for the delay in making the review application.
10. Accordingly, CAN 2 of 2025 is dismissed on contest but without any order as to costs.
11. Consequently, RVW 38 of 2025 is also dismissed as time-barred.
12. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)