08
17.03.2025
Court No. 14
AGM

WPA 5513 of 2025

Midland Nursing Home Private Limited & Anr.
Vs.
District Magistrate, North 24 Parganas & Ors.

Mr. Subir Sanyal. Sr. Adv.
Mr. Kaushik chatterjee.
Mr. Aman Agarwal.
Mr. Sourajit Mukherjee.
Mr. Trijit Mitra.
Mr. Ritoban Sarkar.
...for the petitioners.

Mr. Supratic Roy.
Mr. A. K. Rai.
Mr. Shivam Mishra.
...for the respondent no. 4.

1. The petitioners are aggrieved by the steps taken by the respondent no. 4 in approaching the District Magistrate under Section 14 of the SARFAESI Act. The order of the District Magistrate dated 4th February, 2025 is impugned herein. The same records that the borrower committed default in repayment of the financial assistance and the account of the borrower was classified as Non-Performing Asset (NPA) on 10th January, 2021 due to non-servicing of interest/installment.
2. The District Magistrate upon satisfaction passed order for taking physical possession of the secured asset within a period of six months from the date of receipt of the order.
3. The Securitization Application has been filed by the petitioners before the Debts Recovery Tribunal seeking declaration that classification of the loan

account as NPA and the steps taken by the respondent no. 4 for recovery of the secured amount is illegal. The said application is pending consideration.

4. The order passed by the Hon'ble Supreme Court on ***3rd September, 2020*** in the matter of ***Gajendra Sharma –Versus- Union of India and Another*** reported in ***2020 SCC Online SC 1240*** has been placed wherefrom it appears that the Hon'ble Court was pleased to direct that the accounts which were not declared NPA till 31st August, 2020 shall not be declared as NPA till further orders. The issue stood disposed of by the Hon'ble Supreme Court on 23rd March, 2021 in the matter of ***Small Scale Industrial Manufacturers Association (Registered) –Versus- Union of India & Ors.*** reported in ***(2021) 8 Supreme Court Cases 511*** by passing necessary order.
5. In the instant case, it appears that the loan account of the petitioners was classified as NPA on 16th January, 2021 that is the period during which the order passed by the Hon'ble Supreme Court in the matter Gajendra Sharma (supra) was subsisting.
6. The District Magistrate, possibly, was not made aware of the order passed by the Hon'ble Supreme Court and, accordingly, the District Magistrate went on to pass the order for taking physical possession of the secured asset relying on the declaration of NPA by the respondent no. 4.
7. The fact as to whether the respondent no. 4 could have declared the petitioners account as NPA on the subject date, is pending consideration before the Debts Recovery Tribunal in the Securitization Application filed by the petitioners. The said

application is likely to be taken up for consideration by the Tribunal shortly.

8. Learned advocate representing the respondent no. 4 submits that the instant writ petition is liable to be dismissed as alternative remedy is available to the petitioners in subsequent proceeding. The Securitization Application filed by the petitioners is pending consideration before the Debts Recovery Tribunal, which is functional at present. Six months time has been granted by the District Magistrate to execute the order passed under Section 14 of the SARFAESI Act.
9. In view of the above, the respondent no. 4 is restrained from taking any step to implement the order passed by the District Magistrate on 4^{th} February, 2025 till 16^{th} May, 2025 or until further order, whichever is earlier.
10. The petitioners are granted liberty to approach the Debts Recovery Tribunal by filing appropriate application to bring on record the order passed by the District Magistrate on 4^{th} February, 2025 seeking necessary relief. If an application is made by the petitioners, the Tribunal shall consider the said application in accordance with law.
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.)