

M/L 116
11.06.2025
Court No.14
PRADIP

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 6599 of 2025
(CAN 1 of 2025)

ASSET RECONSTRUCTION COMPANY (INDIA)
LIMITED & ANR.

Vs.

DISTRICT MAGISTRATE, HOWRAH & ANR.

Mr. Suddhasatva Banerjee
Mr. Debashis Karmakar
Mr. Rabindra Kumar Mitra
Ms. Rupal Singh
Mr. Ashok Kumar Singh

...for the Petitioners.

Mr. Somnath Ganguli, Ld. AGP
Ms. Kalpita Paul

...for the State.

Mr. Sourito Ganguly

...for the Respondent no.2.

Mr. Surajit Nath Mitra, Sr. Adv
Mr. Debjit Mukherjee
Mr. Nimesh Mitra
Ms. Susmita Mitra
Mr. Kaustav Bhattacharya
Mr. R.K. Pandey
Ms. Priyanka Jana

...for the Applicant.

1. Affidavit of service filed in Court today is taken on record.
2. Leave granted to the learned advocate representing the respondent no. 2 to file vakalatnama in the department in course of this week.
3. The petitioners are aggrieved by the order passed by the District Magistrate on 11th March, 2025 under Section 14 of the SARFAESI Act, 2002 rejecting the application filed by the petitioners.
4. The contention of the petitioners is that the authority acting under Section 14 of the SARFAESI Act does not

have any adjudicatory power. The authority could not have adjudicated as to whether the application was made within the prescribed period of limitation or not.

5. Prayer has been made to set aside the impugned order and direct the Section 14 authority to reconsider the said application.
6. In the writ petition an application for addition of party has been filed by one Santosh Kumar Pandey claiming himself to be the owner of the secured asset.
7. It has been submitted that the secured asset is recorded in the name of the applicant. Record of rights has been annexed to the application seeking addition of party in support of such ownership.
8. It has also been submitted that in a proceeding initiated by the auction purchaser, the Hon'ble Division Bench vide order dated 26th November, 2024 in MAT 2088 of 2024 with CAN 1 of 2024 and CAN 2 of 2024 (Santosh Kumar Pandey Vs. Manoj Chatterjee & Ors.) was pleased to set aside the order passed by the learned Single Judge on 29th October, 2024 in WPA 26407 of 2024 (Manoj Chatterjee Vs. The State of West Bengal & Ors.) which was obtained ex parte against the applicant and was pleased to observe that the authorities can take possession in accordance with law.
9. It has been submitted that precious right of the applicant will be infringed if any order is passed behind his back without affording him an opportunity of hearing.
10. The application for addition of party has been strenuously opposed by the learned counsel representing the petitioner.

11. It has been submitted that as the impugned order was passed by the District Magistrate, there is no requirement of adding the applicant as party respondent in the instant writ petition. The applicant is neither a necessary nor a proper party for impleadment in the present writ petition.
12. Upon hearing the submissions made on behalf of the parties, the Court is of the prima facie opinion that the applicant has been able to show some right in his favour by relying upon the record of rights of the secured asset wherein his name is recorded. Any order passed in connection with the secured asset which is recorded in the name of the applicant, without hearing the applicant, will amount to violation of the principles of natural justice and may be prejudicial to the interest of the applicant.
13. In view of the above, the Court is inclined to allow the application seeking addition of party.
14. Accordingly, the application for addition of party being CAN 1 of 2025 is allowed and the same stands disposed of.
15. Upon hearing the submissions made on behalf of the parties including the applicant, it appears that proceeding under the SARFAESI Act in connection with the subject property is pending consideration before the Debts Recovery Tribunal. The learned Tribunal has fixed 10th June, 2025 for hearing the application.
16. As the learned Tribunal is already in seisin over the proceeding in connection with the secured asset, hence, the instant writ petition is disposed of with a request to the learned Tribunal to dispose of the application on

merits at the earliest upon hearing all the parties without being influenced by any observation made hereinabove.

17. The writ petition and the connected application stands disposed of.

18. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)