

02.05.2025
Sl. No.5
akd

W. P. A. 9249 of 2025

[Abhijit Nandy -Vs- Punjab National Bank & Ors.]

Mr. Suvasish Sengupta
Mr. Arnab Dutt

... .. for the petitioner

Mr. R. N. Ghose
Ms. T. Ghose

... .. for the respondent-Bank

1. The petitioner has preferred the present writ petition being aggrieved by the action of the respondent-Bank, whereby the Bank initiated proceedings against the petitioner's property being J.L. No. 31, R.S. & L.R. Dag Nos. 12705 and 12708, Mouza – Baruipur, District 24-Parganas (South).
2. It is the case of the petitioner that he is the absolute owner of the said land by virtue of a registered sale deed dated 19.02.2020. The property has been duly mutated in his favour, and his name has been entered into the record of rights. On 22.04.2025, a notice was found pasted on the outer wall of the petitioner's premises. The said notice, however, pertains to J.L. No. 31, R.S. & L.R. Dag Nos. 15520 and 15521, Mouza – Baruipur, District 24-Parganas (South). Hence, the petitioner has approached this Court to challenge the said notice.
3. A writ petition against a financial institution under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act') is not maintainable in view of the law laid down by the Hon'ble

Supreme Court in *Phoenix ARC Private Limited vs. Vishwa Bharati Vidya Mandir & Ors.* [(2022) 1 SCR 950; Civil Appeal Nos. 257–259 of 2022].

4. This Court is conscious of the fact that the action initiated by the respondent-Bank is under the SARFAESI Act. However, it is the specific case of the petitioner that the property involved in the said proceedings does not belong to the borrower and is not the mortgaged property. In view of the same, this court can examine the said issue while exercising its discretionary jurisdiction.

5. The petitioner alleges that the notice was illegally affixed to his premises, even though it relates to a different R.S. and L.R. Dag number. Learned Advocate for the respondent-Bank submits that the Bank has engaged an Amin to re-identify the mortgaged property. In the meantime, the Bank authorities are not proceeding with the vacation notice.

6. In view of the submission made by the learned Advocate for the respondent-Bank, learned Advocate for the petitioner seeks to withdraw the present writ petition.

7. Accordingly, the writ petition is dismissed as withdrawn.

8. Written instruction of the Bank is taken on record.

9. Since no affidavits have been filed by the respondent, the allegations made in the writ petition shall not be deemed to have been admitted.

10. There shall be no order as to costs.

11. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)