

2011
2025
THURSDAY

Court : MB-24
Item : AD-01
Status : DO
ID : 266312
AR : NANDY

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 10580 OF 2025

MALINA DE
VS.
THE STATE OF WEST BENGAL & ORS.

MR. PRNIT BAG, ADVOCATE
MS. SANJUKTA RAY, ADVOCATE

.....for the Petitioner

MR. JAYANTA SAMANTA, ADVOCATE
MR. KAUSTAV CHATTERJEE, ADVOCATE

.....for the State

MR. PANKAJ KUMAR MUKHERJEE, ADVOCATE

.....for the State Bank of India

1. Affidavit of service, as filed, be kept with the record.
2. The petitioner seeks to challenge the action of the Bank in taking possession of an asset which was mortgaged by the petitioner with the Bank for availing a loan of approximately Rs.1 Crore. The amount indicated in the notice under Section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, the said Act), is Rs.1,23,65,451.18/-.
3. Mr. Bag, learned Advocate appearing for the petitioner submits that the petitioner is ready and willing to pay the entire amount as afore-stated, as indicated in the notice under Section 13(2) of the said Act. The principal grievance of the petitioner, as urged by the Mr. Bag is that the Bank is seeking to take possession of the entire tract of land, approximately 21 decimals, rather than take possession of 12 decimals, which had been mortgaged by the petitioner with the Bank for the loan.
4. The petitioner has preferred an application under Section 17 of the said Act, which is pending adjudication before the Debts Recovery Tribunal-II, Kolakata. In fact, the Bank had also initiated an action under Section 14 of the Act and an order was passed thereon by the respondent no. 5 on 05.03.2025, permitting possession to be taken. In the order as well, the description of the secured asset is restricted to 12 decimals of land. The order of the respondent no. 5 was assailed before the Debts Recovery Tribunal-II, Kolkata, in which initially on 11.04.2025, the Tribunal had directed the

Bank to give a three weeks prior notice before proceeding to take possession of the mortgaged land, in terms of the order passed by the respondent no. 5.

5. Mr. Mukherjee, learned Advocate appearing for the respondent-Bank submits that the amount of Rs.1.23 Crores, as indicted in the notice under Section 13(2) of the said Act, was that of November 2024 and presently the amount has increased on account of accrued interest. Mr. Mukherjee further submits that the apprehension of the petitioner is ill-founded inasmuch as the Bank will act strictly in accordance with its rights under the mortgaged deed, as specified in the notice under Section 13(2) of the said Act and in terms of the order passed by the respondent no. 5 on 05.03.2025.
6. Having heard the parties and perused the records, it appears that the apprehension of the petitioner is without any basis as neither the notice under Section 13(2) of the said Act nor the order of the respondent no. 5, entitles the Bank to take possession beyond 12 decimals of the said land, which was mortgaged.
7. The Bank has made it clear in no uncertain terms that the possession, as and when the same is sought to be taken, in compliance with the order passed by the Debts Recovery Tribunal-II on 11.04.2025, will be restricted to 12 decimals of the said land, since the same is the only mortgaged land and not beyond that even though the deed for the 16 decimals of land is lying with the Bank.
8. In view of the afore-stated submissions and stand taken by the Bank, I find no reason to interfere in the matter.
9. The writ-petition being **WPA 10580 of 2025** is accordingly **disposed of**. No order as to costs.
10. Urgent Photostat Certified Copy of this order, if applied for, be given to the parties.

(REETOBROTO KUMAR MITRA, J.)

