D/L.01.
May 30, 2025.
SUBRATA/KAUSHIK.

WPA No. 12157 of 2025

Narayan Saha
Vs.
State of West Bengal and Others

Mr. Subhas Chandra Sur
... for the petitioner.

Mr. Rishad Medora
Mr. Ramya Hariharan
Mr. Soumyajit Saha
... for the Bank.

Mr. Dipanjan Dutta
Md. Ahsanuzzaman
Ms. Mohuya Dutta Biswas
Ms. Tuhina Parvin - I
... for the State.

This writ petition has been filed primarily challenging the order passed by the learned Additional Chief Judicial Magistrate, Barasat, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the Act of 2002).

Mr. Sur, learned advocate representing the petitioner, submits that this Court has jurisdiction to entertain the petition. He further submits that only the District Magistrate or the Additional District Magistrate is empowered to exercise the power under Section 14 of the Act of 2002. He contends that the learned Additional

Chief Judicial Magistrate has no jurisdiction to take any step under Section 14 of the said Act. According to him, since the order was passed without jurisdiction, it cannot be allowed to stand. In support of his contention, he has referred to an unreported decision of the Hon'ble Supreme Court passed in Civil Appeal No. 175 of 2022 on 27th July, 2022 (*M/s. R. D. Jain & Co. vs. Capital First Ltd. & Ors.*).

Mr. Medora, the learned advocate representing respondent no. 3/Bank, vehemently opposes the petitioner's contention. He submits that there is an efficacious alternative remedy available, and accordingly, the writ petition is not maintainable. In support of his contention, he cites a decision, reported in (2010) 8 SCC 110 (*United Bank of India vs. Satyawati Tondon & Ors.*).

Mr. Dutta, learned advocate representing the State, adopts the submissions advanced on behalf of the Bank. He submits that within the territorial jurisdiction of the city of Calcutta, a Magistrate has the authority to issue orders or take steps under Section 14 of the Act of 2002.

Heard the learned advocates representing the respective parties and perused the materials on record. Admittedly, the petitioner is a borrower who took a loan from the Bank. However, he failed to pay the instalments within the specified time, and accordingly, proceedings under the Act of 2002 were initiated against him. A notice under Section 13(2) of the Act of 2002 was served upon him in the year 2013, followed by a notice under Section 13(4) of the said Act in the year 2015. Yet, the borrower retained possession of the secured asset, and hence, the secured creditor was compelled to take steps under Section 14 of the Act of 2002. Consequently, an order under Section 14 was passed on 9th April, 2025.

It is admitted that the action taken under Section 14 of the Act of 2002 is merely a consequential step to the action initiated under Section 13(4). It is well-settled that when a statute provides an alternative remedy, the Writ Court should exercise self-restraint. The power of judicial review must be exercised with caution and circumspection, particularly where it may result in stalling recovery proceedings for bank dues at the mere asking.

In view of the above, I do not find any justification to entertain this matter, and accordingly, the writ petition is dismissed.

However, this order shall not preclude the petitioner from availing the remedy available under the applicable enactment.

(Partha Sarathi Chatterjee, J.)